



Environmental  
Defenders Office

**Submission on the development of a new Climate  
Action Plan for Tasmania**

**7 May 2021**

## About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

***Successful environmental outcomes using the law.*** With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

***Broad environmental expertise.*** EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

***Independent and accessible services.*** As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

Environmental Defenders Office is a legal centre dedicated to protecting the environment.

**[www.edo.org.au](http://www.edo.org.au)**

Submitted to:

Tasmanian Climate Change Office  
Department of Premier and Cabinet  
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## Introduction

- 1 EDO has extensive experience across Australia in providing legal advice on climate and energy policy and law reform at the national, State and Territory levels.
- 2 EDO welcomes the current opportunity to provide the following brief submission to the development of a new Climate Action Plan for Tasmania. We thank the Tasmanian Climate Change Office (**TCCO**) for the short extension of time to provide this submission.
- 3 EDO acknowledges the achievements of the Tasmanian Government under the previous Climate Action Plan 2017 – 2021 (**Climate Action 21**) as briefly outlined in the TCCO's *Developing a new Climate Change Action Plan for Tasmania: Opportunities Paper 2021 (Opportunities Paper)*. We commend Premier Gutwein's previous appointment as Minister for Climate Change. To ensure a whole-of-government response to the challenges and opportunities arising from climate change, we trust that this portfolio will remain with the Premier in the incoming government.
- 4 Despite the implementation of many of the actions under Climate Action 21, and the much lauded achievement of net zero greenhouse gas (**GHG**) emissions in Tasmania in recent years,<sup>1</sup> there remains significant work to be done to ensure that Tasmania remains on track to meet Australia's commitment under the Paris Agreement to limit the increase in global warming to 1.5°C on pre-industrial levels.<sup>2</sup> The importance of this work cannot be overstated as Australia is already suffering under the impacts of a warming climate.<sup>3</sup>
- 5 The Black Summer bushfires in the summer of 2019-20 underscored the devastating impacts a rapidly warming climate is already having on the community, the economy and the environment. Nearly 80 per cent of Australia's adult population was impacted by those bushfires, either directly or indirectly.<sup>4</sup> Air quality in many major cities plummeted and more than double Australia's annual emissions of carbon dioxide were released into the atmosphere.<sup>5</sup> It is estimated that 19 million hectares were burnt, with 3 billion vertebrates (mammals, reptile frogs and birds) killed or displaced.<sup>6</sup> The 2019-20 bushfire season followed devastating bushfires in Tasmania in 2013, 2016 and 2019 where large tracts of wilderness areas were burned, and properties and lives were lost.
- 6 The Black Summer serves as a stark warning: Tasmania can and must take urgent action to both curb GHG emissions and take steps to plan for and respond to a warming climate.

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<sup>1</sup> See for example, Refer to Media Statement by Premier & Minister for Climate Change, Leading the world in climate change action dated 25 June 2020, available at:

[http://www.premier.tas.gov.au/releases/leading\\_the\\_world\\_in\\_climate\\_change\\_action](http://www.premier.tas.gov.au/releases/leading_the_world_in_climate_change_action) .

<sup>2</sup> Point Advisory has modelled that if Tasmania continued on a "business as usual" path, its emissions could sharply increase to 2050. See Point Advisory (2021) Net Zero Emissions Pathway Options for Tasmania - Background Paper, available at

[http://www.dpac.tas.gov.au/data/assets/pdf\\_file/0011/573095/net\\_zero\\_emissions\\_background\\_Paper\\_-\\_Final.pdf](http://www.dpac.tas.gov.au/data/assets/pdf_file/0011/573095/net_zero_emissions_background_Paper_-_Final.pdf) at under a "high business as usual" rate outlined in table 1 on p 6.

<sup>3</sup> Australia's average annual temperature has warmed by around 1.5°C since 1850, and the best available science tells us that average temperatures are projected to rise further. See

<sup>4</sup> Climate Council of Australia, Summer of Crisis, March 2020, available at

<https://www.climatecouncil.org.au/wp-content/uploads/2020/03/Crisis-Summer-Report-200311.pdf>

<sup>5</sup> Ibid.

<sup>6</sup> WWF (2020) Australia's 2019-2020 Bushfires: The Wildlife Toll (Interim Report), accessed at <https://www.wwf.org.au/news/news/2020/3-billion-animals-impacted-by-australia-bushfire-crisis#gs.iqmlnv>

- 7 Tasmania’s achievement of net zero GHG emissions for the past four reported years is almost entirely attributable to the carbon stored in forests (otherwise referred to as the land use, land use change and forestry sector (LULUCF)).<sup>7</sup> We further observe that since the implementation of the Climate Action 21, no any substantial GHG emissions reductions were achieved in other sectors outside of LULUCF. In fact, emissions in all other sectors rose since 2016.<sup>8</sup>
- 8 Reliance on the LULUCF sector alone to mitigate Tasmania’s GHG emissions is risky, as the carbon stored in forests it is vulnerable to events such as bushfires (which are more likely under projected warming scenarios).<sup>9</sup> The sector is also vulnerable to changes in land use regulation and policies, such as the Government’s “Agri-vision 2050” which aims to grow the sector by four to five-fold by 2050, the expansion of the forestry sector and in particular native forestry, and the incoming Tasmanian Planning Scheme which will exempt much vegetation clearance from the requirement for a permit. Reliance by Tasmania on LULUCF to offset GHG from other sectors also hinders progress towards reducing emissions in other sectors, resulting in Tasmania’s economy and community being unprepared for potentially rapid changes in markets and technologies.
- 9 In this context, EDO provides the general comment that the incoming Climate Action Plan should prioritise actions that decrease Tasmania’s reliance on the LULUCF sector to offset emissions from other sectors, for example in looking to reduce emissions from industry, direct combustion, transport, agriculture, and waste sectors.
- 10 In addition to the extensive resources already available to allow the Government to identify priorities and responsibilities, and to set a bold, clear and ambitious programme of action,<sup>10</sup> we expect that the TCCO has already received many submissions on what practical steps should be included in the future Climate Action Plan to reduce GHG emissions and to take advantage of the opportunities presented by it.
- 11 Given EDO’s legal expertise, this brief submission focusses primarily on legislative and policy actions that should be implemented into Tasmania’s new Climate Action Plan.<sup>11</sup> We would welcome any opportunity to discuss our recommendations with the TCCO in more detail.

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<sup>7</sup> See CSIRO, Response to Notice to Give Information 21 April 2020 for the Royal Commission into National Natural Disaster Arrangements, 21 April 2020, available at <https://naturaldisaster.royalcommission.gov.au/system/files/exhibit/CSI.500.001.0001.pdf>

<sup>8</sup> Refer to State and Territory Greenhouse Gas Inventories 2019 (DISER, 2021) accessible at: <https://www.industry.gov.au/data-and-publications/national-greenhouse-accounts-2019/state-and-territory-greenhouse-gas-inventories-annual-emissions>

<sup>9</sup> CSIRO, Climate change in Australia - Projections for Australia’s NRM regions, accessed on 29 April 2021, available at: <https://www.climatechangeinaustralia.gov.au/en/climate-projections/future-climate/regional-climate-change-explorer/clusters/>

<sup>10</sup> Examples of which were set out in schedule 1 to EDO’s Submission to the Draft Climate Change Action Plan 2016-2021, available here: <https://www.edo.org.au/wp-content/uploads/2019/12/160325-Embracing-the-Climate-Challenge-EDO-Tasmania-submission1.pdf>

<sup>11</sup> We note that this submission and our recommendations will necessarily cover some of the same ground as our previous submissions in response to independent reviews of the Act, Climate Action Plans, and proposed legislative reform to the extent that our previous recommendations have not yet been adopted. Our previous Tasmanian climate submissions can be found on our website here: <https://www.edo.org.au/publication/archive-of-tasmania-submissions-1997-2017/>

## Recommendations for reform of the *Climate Change (State Actions) Act 2008*, other Acts and policies

- 12 The first priority of any new Tasmanian Climate Action Plan should be to implement the legislative reform recommended in EDO's recent submission to the Independent Review of the *Climate Change (State Actions) Act 2008* (Tas) (the **Act**) including by legislating a GHG emissions target of net zero by 2022. A copy of our detailed submission to that review is **attached**.<sup>12</sup>.
- 13 In addition to our recommended amendments to the Act, EDO further recommends:
- (a) the amendment of the *Environmental Management and Pollution Control Act 1994* (Tas) (the **EMPC Act**) to include projects that will create GHG emissions above a set threshold as a Level-2 activity requiring assessment by the Environment Protection Authority (**EPA**). The appropriate threshold should be based on current scientific data regarding emission levels considered harmful to the environment. Consideration should also be given to how fees for EPA permits can incentivise reductions in GHG emissions and better resource efficiency for industry;
  - (b) the preparation of an GHG Environment Protection Policy imposing limits above which GHG emissions will be considered an "environmental nuisance" and outlining best practice measures to minimise emissions. The policy will not be self-enforceable, but will allow the EPA or local councils to utilise tools within the EMPC Act to set appropriate conditions on permits, require audits to be undertaken, require ageing industrial buildings to enter environmental improvement programmes and clarify that GHG will be considered a "pollutant" for the purposes of EMPC Act;
  - (c) the amendment of the EPA's Guidelines for Environmental Impact Assessments to require mandatory consideration of GHG emissions, including consideration of scope 3 emissions, from all proposals requiring assessment by the EPA to ensure that climate change impacts are routinely assessed as part of any environmental impact assessment;
  - (d) the preparation, in consultation with the community, of a State Planning Policy for climate change mitigation and adaptation. This Policy should specifically address how planning decisions should be made in line with Tasmania's legislated GHG emissions target(s), and require adaptation to the modeled impacts of climate change, particularly increased temperature, sea level rise, variable rainfall or future bushfire risks, to be factored into every planning decision;
  - (e) the amendment of the Statewide Planning Provisions in line with the State Planning Policy for climate change mitigation and adaptation, and ensure that the Climate Action Plan is an incorporated document that may be referenced by planning authorities and the Tasmanian Planning Commission in planning decisions;
  - (f) the amendment of the *Local Government Act 1993* and regulations to specifically require the incorporation of climate change targets and modeling of climate change

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<sup>12</sup> It is also published on our website here: <https://www.edo.org.au/publication/submission-to-the-independent-review-of-the-climate-change-state-actions-act-2008-tas/>

impacts into strategic planning processes and decision-making,<sup>13</sup> and provide statutory indemnity to local councils who implement best practice coastal hazard management or other climate adaptation approaches;<sup>14</sup>

- (g) the amendment of the *Emergency Management Act 2006* and *Fire Service Act 1979* to explicitly require climate change to be considered in decision-making, risk assessment and management, and disaster preparedness planning;<sup>15</sup>
- (h) the review of all Tasmanian Government policies including the Agri-vision 2050 policy,<sup>16</sup> the Rural Water Use Strategy,<sup>17</sup> the Growing Tasmania's Forestry Sector policy,<sup>18</sup> population growth strategy,<sup>19</sup> and the Sustainable Growth Plan for the Salmon Industry<sup>20</sup> to ensure their implementation is consistent with, and will not jeopardise the achievement of, legislated GHG emissions targets; and
- (i) consideration be given to how actions taken in pursuit of legislated GHG emissions targets could align with and further the objects of the UN Sustainable Development Goals.<sup>21</sup>

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<sup>13</sup> For more detailed analysis in support of this recommendation, please refer to EDO's *Submission on the Review of Tasmania's Local Government Legislation Framework: Discussion Paper*, accessible here: <https://www.edo.org.au/wp-content/uploads/2019/12/190301-EDO-Tasmania-Submission-on-Review-of-Local-Government-Legislation-Framework-Discussion-Paper.pdf>

<sup>14</sup> Similar to s.733 of the *Local Government Act 1993* (NSW).

<sup>15</sup> For more detailed analysis in support of this recommendation, please refer to EDO's *Submission on The Draft Bushfire Mitigation Measures Bill (2020)*, accessible here: <https://www.edo.org.au/wp-content/uploads/2020/10/201028-EDO-submission-on-draft-Bushfire-Mitigation-Measures-Bill-2020.pdf>

<sup>16</sup> Accessible here: [http://australianpolitics.com/downloads/tas/2014\\_liberal-policies/Cultivating%20Prosperity%20-%20A%202050%20Vision%20for%20Agriculture.pdf](http://australianpolitics.com/downloads/tas/2014_liberal-policies/Cultivating%20Prosperity%20-%20A%202050%20Vision%20for%20Agriculture.pdf)

<sup>17</sup> Accessible here: <https://dpiwwe.tas.gov.au/water/water-legislation-policies-and-strategies/rural-water-use-strategy>

<sup>18</sup> Accessible here: <https://tas.liberal.org.au/news/2021/04/17/growing-tasmanias-forestry-sector>

<sup>19</sup> Accessible here: [https://www.stategrowth.tas.gov.au/policies\\_and\\_strategies/populationstrategy](https://www.stategrowth.tas.gov.au/policies_and_strategies/populationstrategy)

<sup>20</sup> Accessible here: <https://dpiwwe.tas.gov.au/sea-fishing-aquaculture/marine-farming-aquaculture/salmon-industry-growth-plan>

<sup>21</sup> Accessible here <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>. For further information about how the Sustainable Development Goals are relevant to climate change policies, see EDO's *Submission on Australia's Climate Change Policy Review*, accessible here: [https://www.edo.org.au/wp-content/uploads/2019/12/Australias\\_Climate\\_Change\\_Policy\\_Review\\_EDOs\\_of\\_Australia\\_submission\\_May\\_2017-1.pdf](https://www.edo.org.au/wp-content/uploads/2019/12/Australias_Climate_Change_Policy_Review_EDOs_of_Australia_submission_May_2017-1.pdf)