

Strengthening Victoria's Climate Laws



The *Climate Change Bill 2016* that was introduced into Parliament in November 2016 aims to repeal the old *Climate Change Act* and create a new Act capable of transforming Victoria into a zero emission economy by the year 2050.

What does the Act do?

If passed, the new Act will:

- Establish a target of net zero greenhouse gas emissions by 2050;
- Require five-yearly interim emissions targets from 2020 onwards;
- Improve accountability and transparency on efforts to cut emissions;
- Ensure all arms of government are factoring climate change impacts and emissions reductions into their decision-making and policy setting.

Will the new Climate Change Act reduce greenhouse gas emissions?

The *Climate Change Bill 2016* proposes a number of measures to facilitate emissions reduction.

Targets

For the first time, the Bill sets a long-term target for Victoria: net zero greenhouse gas emissions by the year 2050 (s.6).

The Bill also establishes interim targets for how much pollution will be reduced in 5-year periods from 2020 to 2050 (s.10). These targets have to be set in advance, continue a downward trend in emissions and be based on the advice of independent experts (s.12).

Unlike the long-term target, these interim targets are not quantified in the legislation and there is no strict obligation on the Minister or Premier to achieve them. Strong interim targets are essential for ensuring emissions reductions are not left too late, and should be informed by the latest understanding of carbon budgets.

Pledges

The pledge mechanism is the primary way in which the government intends to ensure emissions reductions are achieved. Three types of pledges have been established: a whole-of-government pledge; sector pledges; and council pledges.

The whole-of-government pledge adds up commitments by government departments and agencies to reduce emissions associated with their activities (ss.41 & 42). Under the sector pledges (ss.43-45), relevant ministers must make a statement describing what policy and regulatory measures their department will take to reduce emissions in prescribed high emitting sectors. Council pledges are an opt-in statement to reduce emissions (ss.46 & 47).

These mechanisms are a significant improvement on the old Act and have the potential to deliver substantial emissions reductions. There is, however, room in these provisions for a government to get away with a very limited approach to climate change. Of particular concern are ambiguity around ministerial accountability for the whole-of-government pledge (s.42(1)(a)) and the ability of the Minister to vary sector pledges without publically providing reasons (s.50).



Strengthening Victoria's Climate Laws



Powers

The Bill explicitly grants the Environment Protection Authority (EPA) the power to regulate greenhouse gas emissions (s.101). It does not go so far as to require the EPA to use this power or offer a way in which the EPA can regulate for climate outcomes, such as restricting emissions intensity through new Works Approvals or Licenses. We hope to see more detail in the government response to the EPA review.

Reporting

The Bill improves accountability by requiring an annual report on the state's greenhouse gas emissions and how Victoria is tracking towards our targets (s.52). Additionally, the Minister is required to prepare a report on the most recent climate science every five years to coincide with the interim target setting (s.51). The Minister also has to report back on whether the interim target was achieved. Unfortunately due to delays in reporting emissions, this will occur up to two years after the end of the target period (s.54(2)). Data closer to real time is needed – a requirement for reporting interim data would improve the transparency of mitigation efforts.

How will the Act improve consideration of climate change in government decisions?

The Bill proposes two parts that require decision makers to consider climate change.

The first requires certain decision-makers to consider the emission contribution and impacts of climate change when making certain decisions under Acts listed in Schedule 1 (s.17). Unfortunately, Schedule 1 has not been expanded from the existing Act and currently only covers a very narrow range of decisions. The government has promised to review Schedule 1 in 2017. This is critical to strengthening the operation of the Act.

Secondly, the Bill specifies that the government '*will endeavour to ensure* that any decision, policy or program *appropriately takes account* of climate change if it is relevant by having regard to a set of policy objectives and guiding principles' (s.20). This is a relatively weak provision, intended as a signalling clause to encourage decision-makers to spare a thought for the climate, while creating no real obligation to ensure that better decisions are made.

A better solution would be establishing a more strict 'climate test' for government decisions. This would prevent a decision from being made if it would reduce Victoria's ability to meet our climate targets.

The objectives (s.22) and principles (ss.23-28) in the Bill are strong and include such imperatives as: meeting our emissions reduction targets, building resilience for climate impacts and supporting vulnerable people and communities in transition. These objectives and principles also apply to processes within the Bill such as determining interim targets, preparing a five-yearly climate strategy, drafting adaptation plans and setting emissions reduction pledges.

Will the Act help Victoria adapt to climate change?

The Bill requires adaptation plans to be prepared for at least seven key systems that are particularly vulnerable to climate impacts, updated every five years (ss.34-40). These plans require detailed consideration of the science and climate impacts, clear delineation of roles and responsibilities



Strengthening Victoria's Climate Laws



between government agencies and a list of specific adaptation actions. It is important that these plans are comprehensive and bring together the relevant stakeholders and decision-makers.

In the absence of such plans, many key elements of Victoria's society and economy (such as agriculture, infrastructure and health services) will be under-prepared for the impacts of climate change. A legislated requirement to develop these plans, requiring collaboration of and integration between a range of agencies and stakeholders, is a very important step, especially as climate change is already affecting our communities.

Summary

The new *Climate Change Bill* is a major improvement on the current legislation, which is not fit-for-purpose. In our submission to the Independent Review of the Climate Change Act in 2015, Environment Victoria set out that updated legislation should:

- Establish a truly whole-of-government response to climate mitigation and adaptation;
- Set clear objectives and targets to be met;
- Require clear, regular and prompt public reporting on emissions reductions and adaptation progress;
- Create both opportunities and responsibilities for businesses and communities to contribute;
- Drive the transformation of Victoria's electricity sector, recognising that this is responsible for around 50 percent of the state's emissions; and
- Be sufficiently robust and flexible to work symbiotically with federal legislation and other instruments that may change over time.

These requirements are broadly met, or have the potential to be met, by the Bill. The legislation will only be successful in practice if there is full and proper implementation of its provisions by all government agencies.

For the first time, it sets Victoria's commitments in the international context and holds the government publically accountable for their actions on climate change. The Bill contains processes that could facilitate significant emissions reduction; the sector pledges in particular are an important way of reducing emissions across the Victorian economy in a well-managed way. The requirement for integrated adaptation plans will benefit all sectors of society and the economy.

There remain some serious concerns that sections of the Bill allow too much room for future governments who are not concerned with climate change to get away with shirking their responsibilities. There is no requirement that interim emissions targets and pledges will deliver the early cuts to pollution that are widely accepted to be necessary – the provisions as written allow too much to be left too late. Efforts to embed serious consideration of climate change into government decision-making are welcome, but there remains too much scope to dodge difficult decisions and leave the state on a risky and dangerous business-as-usual path.

Climate change poses a major threat to Victoria's prosperity. Failing to rapidly cut our emissions, as part of a global response, and failing to prepare for the already-locked-in impacts will have terrible consequences for communities and our economy. Passing this legislation needs to be the first step in establishing a comprehensive and committed effort to tackle this problem.

