



Environmental
Defenders Office

**Submission to the Independent Review of the
*Climate Change (State Actions) Act 2008 (Tas)***

29 April 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

Submitted to:

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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. EDO welcomes this third independent review of the *Climate Change (State Actions) Act 2008* (Tas) (the **Act**) and the detailed analysis provided in the March 2021 *Discussion Paper on Tasmania's Climate Change Act: Independent Review of the Climate Change (State Actions) Act 2008* by Jacobs (the **Discussion Paper**).
- 2 In particular, EDO welcomes the recognition that despite the achievement of net zero emissions in previous years, there is significant further work that Tasmania can and should be doing to reduce carbon emissions and to respond and adapt to changing climatic conditions.
- 3 Our submission to this review addresses the first two terms of reference under section 18(2) of the Act, namely:
 - (a) *the extent to which the objects of the Act are being achieved;*
 - (b) *the extent to which additional legislative measures, if any, are considered necessary to achieve the targets set by the Act within the periods contemplated by the Act, including the introduction of performance standards or other mandatory requirements...*
- 4 In responding to these terms of reference, we will broadly answer many of the questions posed by the Discussion Paper.
- 5 A summary of our recommendations can be found below.¹

¹ 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/>

Summary of recommendations

Recommendation 1: Tasmania legislate a binding target of achieving net zero emissions by 2022 and maintaining that position out to 2050 and beyond.

Recommendation 2: The objects of the Act be amended to:

- (a) clearly commit Tasmania to the overarching objective to limiting the increase in global warming to no more than 1.5°C above pre-industrial levels by committing to long-term and interim targets;
- (b) require government decisions to be made consistent with interim and long-term targets;
- (c) refer to planning for a rapid and just transition (including supporting workers to transition) away from fossil fuel production and use, consistent with advice, and
- (d) establish a whole-of-government approach to addressing climate change impacts.

Recommendation 3: Amend the Act to require Ministers to set and report against sectoral targets based on independent expert advice informed by the best available science and principles of ecologically sustainable development (**ESD**).

Recommendation 4: Amend the Act to re-establish an independent expert climate change body to provide advice on best available science for climate change mitigation and adaptation, and to assess and report on progress in relation to meeting targets and implementing adaptation plans. The Act should also require decision makers to act consistently with the advice of the independent body.

Recommendation 5: Amend the Act to create a duty on Ministers and relevant decision makers to make decisions consistently with legislative climate change objects and targets when exercising prescribed functions, particularly in relation to planning functions.

Recommendation 6: Amend the Act provide a high-level process for climate risk assessment and require specific policies and initiatives for sectors identified at high risk from climate change impacts (e.g. housing, infrastructure, agriculture, energy, insurance, tourism, health).

Recommendation 7: Amend the Act to require a Tasmania-wide Adaptation Plan to be made, published, and periodically reviewed by the Minister on advice from the independent statutory climate change advisory body. Sectoral and regional adaptation plans should also be made by portfolio Ministers consistent with the jurisdictional adaptation plan.

Recommendation 8: Amend the Act to require the development of Tasmanian-wide indicators, including for emissions reduction in line with set targets, adaptation planning and climate readiness of legislation; and require Ministers and departments to regularly report against those indicators.

The extent to which the objects of the Act are being achieved and the need for effective regulation

- 6 EDO has long called for clear and effective legislation and policy at all levels to address climate change, both in terms of mitigation and adaptation.² As a national community legal centre specialising in environmental law, we support a just and rapid transition to clean energy, productive livelihoods, and a safe and stable climate in which humanity and other species can flourish.
- 7 Anthropogenic climate change is having significant impacts in Australia and across the globe. The annual global temperature in 2019 was 1.1 degrees Celsius (°C) warmer than pre-industrial conditions.³ Australia's average annual temperature has warmed by around 1.5°C since 1850,⁴ and the best available science tells us that average temperatures are projected to rise further. Australia is already experiencing the impacts of climate change, which include increasing temperatures, the warming and acidification of oceans, sea level rise, decreased rainfall in southern parts of the country and increased and more extreme rainfall in the north, longer dry spells, greater number of extreme heat days and the long-term increase in extreme fire weather.
- 8 In the future, it is projected Tasmania will experience higher average temperatures all year, with more hot days and warm spells and harsher fire-weather. Tasmania will also experience sea level rise, an increase in extreme rainfall events, but a decrease in rainfall in spring and with the possibility of less rain in autumn and summer.⁵
- 9 The impacts of climate change are not just environmental. There are other significant implications, including social and economic impacts, across all sectors including health, tourism, agriculture, infrastructure and national security. According to a recent Australian Academy of Science report:⁶

At 3°C of global warming, many of Australia's ecological systems would be unrecognisable. The decline of Australia's natural resources would accelerate through changing distributions or loss of thousands of species and disrupted ecological processes such as habitat maintenance...

Australian agriculture and food security are already exposed to increased risk from drought, heatwaves, fires, floods and invasive species....

² For example see: [Submission on Australia's Climate Change Policy Review](#) and [Submission to the Inquiry into the Climate Change \(National Framework for Adaptation and Mitigation\) Bill 2020 and the Climate Change \(National Framework for Adaptation and Mitigation\) \(Consequential and Transitional Provisions\) Bill 2020](#)

³ See World Meteorological Organisation, WMO confirms 2019 as second hottest year on record, 15 January 2020, available at <https://public.wmo.int/en/media/pressrelease/wmo-confirms-2019-second-hottest-year-record>

⁴ See CSIRO (Commonwealth Scientific and Industrial Research Organisation), 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>

⁵ 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/>

⁶ See Australian Academy of Science (2021) The risks to Australia of a 3°C warmer world, available at: www.science.org.au/warmerworld

Fisheries and aquaculture industries are impacted by ocean acidification and warming, which affects species distribution, reproduction and overall health of stock. Decreasing stock levels would cause a decline in profitability, and many aquaculture fisheries enterprises may cease to exist, change fundamentally, or move to other locations if these impacts become worse.

Changes to supply chains and ongoing vulnerabilities to extreme weather events may cause higher rates of unemployment, mental health issues, suicides and heat-related health conditions in some regions of Australia.

Under some scenarios, one in every 19 property owners face the prospect of insurance premiums that would be effectively unaffordable by 2030. A3°C world would render many more properties and businesses uninsurable.

- 10 Urgent and rapid reductions in greenhouse gas (GHG) emissions from both direct and indirect sources are now required in order to meet the Paris Agreement goal of “holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit warming to 1.5°C”.⁷ The longer emissions reductions are delayed, the more pronounced and severe the effects of climate change will become.
- 11 The ‘Black Summer’ bushfires of 2019/2020 served as a stark warning to all Australians that the direct consequences of climate change have arrived. The Black Summer was a deafening ‘wake-up call’ to those with the power and responsibility to curb emissions – nothing less than urgent action and strong leadership will suffice.
- 12 Based on the available data, Tasmania has achieved net zero GHG emissions for the past four reported years.⁸ However, we note that this achievement is entirely attributable to the carbon stored in forests (otherwise referred to as the land use, land use change and forestry sector (**LULUCF**)).⁹ As we discuss further below, reliance on the LULUCF sector alone to mitigate Tasmania’s GHG emissions is risky. It may also hinder progress towards reducing emissions in other more emissions-intensive sectors and leave Tasmania’s economy and community unprepared for potentially rapid changes in markets and technologies.
- 13 In this context, EDO commends the Tasmanian Government on reviewing the Act and commissioning the independent review by Jacobs and the Point Advisory options paper to “provide background information and preliminary analysis on Tasmania’s emission profile, pathways and opportunities to set a more ambitious net zero emissions target”.
- 14 As both the Discussion Paper and the Point Advisory paper highlight, despite Tasmania’s achievement of net zero emissions in previous years, there is significant work to done to achieve the objects of the Act.

⁷ In December 2015, over 190 nations affirmed a goal to reduce greenhouse gas emissions in order to limit average global warming to well below 2°C above preindustrial levels and to pursue efforts to limit warming to 1.5°C. United Nations Framework Convention on Climate Change Conference of the Parties 21, Adoption of the Paris Agreement, ‘Annex -Paris Agreement’, Article 2 (FCCC/CP/2015/L.9/Rev.1). The Paris Agreement builds on past international commitments in Cancun, Lima and elsewhere under the 1992 UN Framework Convention on Climate Change.

⁸ Australian Government (2021) State and territory greenhouse gas inventories: annual emissions, accessed on 29 April 2021, at: <https://www.industry.gov.au/data-and-publications/national-greenhouse-accounts-2019/state-and-territory-greenhouse-gas-inventories-annual-emissions>

⁹ Tasmania Climate Change Office (2021) Tasmania’s Greenhouse Gas Emissions 2021 Factsheet, accessed on 29 April 2021 at: http://www.dpac.tas.gov.au/_data/assets/pdf_file/0004/575392/TCCO_Fact_Sheet_-_Tasmanias_Greenhouse_Gas_Emissions_-_2021.pdf

What targets do we need and why?

15 The principal objects of the Act include:¹⁰

- (a) to help Tasmania respond to the challenges of climate change by addressing issues associated with that phenomenon and, in particular, by providing for the setting of a target for the reduction of greenhouse gas emissions in the State as part of the national and international response to climate change; and
- (b) to promote a commitment to action on climate change issues in Tasmania by providing for the development of –
 - i. interim State targets for the reduction of greenhouse gas emissions in the State; and
 - ii. suitable targets and interim targets, having the same aim, for specific sectors of the State's economy; ...

16 We set out below the targets that we recommend Tasmania should set under the Act and our reasoning.

17 As acknowledged by the Tasmanian Government's commitment to achieving net zero by 2050, the currently legislated target to reduce Tasmania's GHG emissions to at least 60% below 1990 levels is no longer in line with the international response to climate change required under the Paris Agreement. Despite it being a key plank of the *Climate Action 21: Tasmania's Climate Change Action Plan 2017–2021* (the Climate Action Plan), the Tasmanian Government has not yet amended the Act to legislate a target of net zero by 2050.¹¹

18 We support the adoption of a net zero target under the Act. However, we note that legislating a net zero target (by 2050 or some earlier date), of itself, will not ensure that emissions reductions occur in line with the rate of reduction required to meet the goals of the Paris Agreement. Instead, it is the volume of emissions that are permitted to be released before the net zero target date, and the rate at which emissions decline, that will determine the ultimate level of global warming that Tasmania will have to endure. For example, if emissions in Tasmania are permitted to rise to higher levels in the future, the corresponding rate and depth of emissions reductions required to achieve the goal of the Paris Agreement may become impossible to achieve (both technologically and economically). The net zero target must therefore function in the context of meeting a carbon budget corresponding to a level of global warming of 1.5°C or well below 2°C above pre-industrial levels as required by the Paris Agreement.

19 In order to do this, mechanisms must be included in the Act to establish the necessary emissions budgets and reduction trajectories, and interim and long-term emissions reduction targets. These mechanisms should be clearly linked to a temperature outcome corresponding to the goal of the Paris Agreement. In this regard, the significant differences in the impacts of climate change at higher levels of global warming mean that Tasmania should implement a binding net zero target and emissions reduction trajectory that is consistent with the 1.5°C target of the Paris Agreement.

20 The stark differences, in terms of climate change risks and impacts, between a 1.5°C warming scenario and a 2°C warming scenario were highlighted in the Intergovernmental

¹⁰ Section 4 of the Act.

¹¹ Refer to action 6.1 of the Climate Action Plan.

Panel on Climate Change's Special Report on the Impacts of Global Warming of 1.5°C (SR15).¹² SR15 states that in order to avoid the most severe impacts of climate change, global temperature increase must be limited to 1.5°C above pre-industrial levels.

- 21 SR15 provides clear examples of the differences in the predicted impacts of global warming at 1.5°C as opposed to 2°C, including:¹³
- (a) High confidence that aggregate climate-related risks are larger if global warming exceeds 1.5°C.
 - (b) High confidence that limiting global warming to 1.5°C compared to 2°C is projected to:
 - Lower the impacts on terrestrial, freshwater and coastal ecosystems and to retain more of their services to humans.
 - Reduce increases in ocean temperature as well as associated increases in ocean acidity and decreases in ocean oxygen levels.
 - Reduce risks to marine biodiversity, fisheries, and ecosystems, and their functions and services to humans.
 - (c) High confidence that the projected decline in coral reefs will be larger at 2°C (>99% losses) than at 1.5°C (70–90% losses).
 - (d) The projected likelihood of a sea-ice free Arctic summer is increased from one per century at 1.5°C of global warming to one per decade at 2°C.
 - (e) Medium confidence that limiting global warming to 1.5°C, compared with 2°C, may:
 - Reduce the number of people both exposed to climate-related risks and susceptible to poverty by up to several hundred million by 2050.
 - Reduce the proportion of the world population exposed to a climate change-induced increase in water stress by up to 50%.¹⁴
 - (f) High confidence that most adaptation needs will be lower for global warming of 1.5°C compared to 2°C, and medium confidence that limits to adaptive capacity for vulnerable regions, ecosystems and human health will become more pronounced at warming higher than 1.5°C.¹⁵
- 22 The actual difference between a 1.5°C and a 2°C scenario is a matter of survival for many vulnerable communities including in the Torres Strait Islands and Pacific States, who are already suffering climate harm at the current global average warming of 1.1°C above pre-industrial levels.
- 23 EDO strongly supports the adoption of a binding net zero reduction target in the Act, but we note that the current science is clear that interim targets and binding emissions reduction trajectories are also required to ensure that Tasmania *remains* on an emissions reduction trajectory that is feasible and sufficient to meet the goal of the Paris Agreement.

¹² Available at <https://www.ipcc.ch/sr15/chapter/spm/>.

¹³ SR15, p.5.

¹⁴ Ibid, p.10.

¹⁵ Ibid.

- 24 Given Tasmania is in the nationally exceptional position of already being at net zero emissions, we recommend Tasmania adopt a legislatively binding **2022 net zero target** (coupled with appropriate emissions budgets, interim targets and reduction trajectories) to ensure that Tasmania's net zero status is maintained until 2050 and beyond.
- 25 As Tasmania has already achieved net zero emissions for the last four years, such a target is achievable and would be in line with the targets of other countries with similar significant forest estates and/or low emissions electricity sectors, such as Costa Rica.¹⁶ Such a target would also lend support to Tasmania's claim to "world-leading" status in climate action.¹⁷

Recommendation 1: Tasmania legislate a binding target of achieving net zero emissions by 2022 and maintaining that position out to 2050 and beyond.

How do we embed effective targets in law?

- 26 EDO has explored the issue of legislating quantifiable and ambitious short and medium-term emissions reduction targets in a number of recent submissions.¹⁸
- 27 In order to be effective, targets must be supported by key mechanisms in law that mandate a whole-of-government approach to climate change mitigation in a clear and coordinated way. Any climate change legislation should also include a coordinated approach to climate change adaptation.
- 28 EDO recommends that effective climate change legislation should include the following elements:
- (a) **Objects:** set a clear overarching objective to reduce GHG emissions and make decisions consistent with limiting the increase in global warming to no more than 1.5°C above pre-industrial levels. The objects should also refer to planning for a rapid and just transition (including supporting workers to transition) away from fossil fuel production and use, and establishing a whole-of-government approach to addressing climate change impacts;
 - (b) **Targets:** impose duties on Government Minister/s to set periodic and long-term emissions reduction targets and carbon budgets and a legislated renewable energy target for electricity use, based on expert advice consistent with internationally agreed climate goals, best available science, and the principles of ESD;
 - (c) **Independent expert advice:** establish a skills-based independent statutory climate change advisory body to advise the Government and the Parliament based on the best available science for climate mitigation, and assess and report on progress in relation to meeting targets and implementing adaptation plans, and require decision makers to act consistently with this advice;

¹⁶ Point Advisory (2021) Net Zero Emissions Pathway Options for Tasmania - Background Paper, accessed on 26 April 2021 at http://www.dpac.tas.gov.au/_data/assets/pdf_file/0011/573095/net_zero_emissions_background_Paper_-_Final.pdf at pp 3-4.

¹⁷ Refer to Media Statement by Premier & Minister for Climate Change, Leading the world in climate change action dated 25 June 2020, accessed on 29 April 2021 at: http://www.premier.tas.gov.au/releases/leading_the_world_in_climate_change_action.

¹⁸ See EDO's [Submission to the Inquiry into the Climate Change \(National Framework for Adaptation and Mitigation\) Bill 2020 and the Climate Change \(National Framework for Adaptation and Mitigation\) \(Consequential and Transitional Provisions\) Bill 2020](#)

- (d) **Duties:** create a duty on Ministers and relevant decision makers to make decisions consistent with relevant climate change legislative objects and targets when exercising prescribed functions, particularly in relation to planning functions;
- (e) **Risk assessment:** adopt a high-level process for climate risk assessment, and require specific policies and initiatives for sectors identified at high risk from climate change impacts (e.g. housing, infrastructure, agriculture, energy, insurance, tourism, health);
- (f) **Adaptation Plans:** require a jurisdiction-wide Adaptation Plan to be made, published, and periodically reviewed by the Minister on advice from the independent statutory climate change advisory body. Sectoral and regional adaptation plans should also be made consistent with the jurisdictional adaptation plan;
- (g) **Monitoring progress:** Develop jurisdiction-wide indicators, including for emissions reduction in line with set targets, adaptation planning and climate readiness of legislation; and regularly report against those indicators; and
- (h) **Governance:** Allocate Ministerial responsibility specifically for climate change, and create a specific governmental departmental division that administers the Act (assisted by advice from an independent statutory climate change advisory body) and supports interagency collaboration on emissions reduction and adaptation.

29 We address each of these recommendations in the Tasmanian context below.

(a) Objects

30 The Act currently includes a list of ten objects. In the 2016 Independent Review of the Act, Jacobs recommended that the Act's objects be redrafted and consolidated around the four key themes of targets and reporting; actions to reduce greenhouse gas emissions; adaptation to projected climate change; and complementarity with national and international climate change initiatives.¹⁹ EDO previously provided qualified support for this recommendation.²⁰

31 We observe that while the first two objects of the Act address the need to set long term and interim targets, neither explicitly commits Tasmania to an emissions reduction trajectory that is in line with the Paris Agreement's goal of pursuing efforts to limit global warming to 1.5°C above pre-industrial levels.

32 Furthermore, the objects do not address:

- (a) the need for decisions to be made consistently with interim or long-term targets;
- (b) the need for Tasmania to plan for a just transition (including supporting workers to transition) away from fossil fuel production and use; and

¹⁹ Jacobs (2016) Final Report of the Independent Review of the Climate Change (State Action) Act 2008, accessed at:

http://www.dpac.tas.gov.au/_data/assets/pdf_file/0003/321087/Independent_review_of_the_Climate_Change_Act_-_Jacobs_Final_report.pdf

²⁰ Refer to our previous submission to the Tasmanian Climate Change Office on Amending of the Climate Change (State Actions) Act 2008 dated 7 November 2018, accessed at:

<https://www.edo.org.au/wp-content/uploads/2019/12/181107-EDO-Tasmania-submission-re-amendments-to-Climate-Change-State-Action-Act-2008.pdf>

(c) for a whole-of-government approach to addressing climate change impacts.

33 We therefore recommend that any redrafting and consolidation of the objects of the Act address these issues.

Recommendation 2: The objects of the Act be amended to:

(a) clearly commit Tasmania to an emissions reduction trajectory, by committing to long-term and interim emissions reduction targets, that is in line with the overarching objective of the Paris Agreement to pursue efforts to limit the increase in global warming to 1.5°C above pre-industrial levels;

(b) require government decision-making to be consistent with interim and long-term emissions reduction targets;

(c) refer to planning for a rapid and just transition (including supporting workers to transition) away from fossil fuel production and use; and

(d) establish a whole-of-government approach to addressing climate change impacts.

(b) Targets

34 Tasmania's population, and its associated GHG emissions in transport, stationary energy, and waste, are expected to increase by 2050.²¹ The Government has also committed to growing the economic output of the agricultural sector by four to five-fold by 2050,²² and reinvigorating the forestry sector.²³ As potentially GHG emissions intensive sectors, these policies could also seriously jeopardise Tasmania's trajectory to maintain net zero emissions status.

35 Point Advisory has modelled that if Tasmania continued on a "business as usual" path, its emissions could sharply increase to 2050.²⁴ This modeling underlines the urgent need for the Tasmanian Government to amend the Act and legislate more ambitious interim and long-term GHG emissions targets consistent with Australia's international obligations under the Paris agreement.

36 While Tasmania is in an enviable position of claiming to have already achieved net zero emissions, the emissions reduction attributable to LULUCF to date has camouflaged a lack of significant action in other sectors, where no marked progress in emissions reductions have been achieved.

37 We consider that reliance on emissions reductions attributable to LULUCF alone will not be adequate to address climate change because:

(a) various government policies may compromise the continued sequestration benefits of the LULUCF sector – these include:

²¹ Discussion Paper at p 18.

²² Ibid. See also DPIPWE (2019) [Tasmanian Sustainable Agri-Food Plan 2019-23](https://dpiipwe.tas.gov.au/agriculture/tasmanias-agri-food-plan), accessible at: <https://dpiipwe.tas.gov.au/agriculture/tasmanias-agri-food-plan>

²³ See <https://tas.liberal.org.au/securing-tasmanias-future-growing-forestry-jobs>

²⁴ Point Advisory (2021) Net Zero Emissions Pathway Options for Tasmania - Background Paper, accessed on 26 April 2021 at 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.

- the Government’s Agri-food Plan which may substantially increase land use change and associated agricultural emissions;
- the proposed reinvigoration of the forestry sector;
- biomass projects (e.g. in the absence of clear regulation of the source of biomass, such projects may encourage additional clearing);
- the relaxation of vegetation clearing controls for public and private land under the incoming Tasmanian Planning Scheme; and
- the loss of vegetation associated with the proposed Bushfire Mitigation Measure Bill.

(b) bushfire risks, which are highly likely to increase with worsening climate change, reduce the sequestration security of existing carbon sinks; and

(c) there is no strong and transparent accounting framework to support the development of both offsets and biofuels for emission reductions opportunities in Tasmania.

38 This emphasises the need for the Act to provide sectoral emissions reduction targets to ensure that Tasmania is not at risk of failing to meet its overarching net zero target. To this end, EDO supports the approach taken in Victoria and the ACT of setting carbon budgets for government departments to report against, whilst inviting non-government entities to pledge to adhere to those budgets. We recommend that such measures be adopted in the Act.²⁵

39 In terms of renewable energy, we commend the Tasmanian Government for committing to a target of producing 200% of the state’s energy needs with renewables by 2040.²⁶ However, EDO recommends that the Act be amended so that the declaration of any new renewable energy source for the purposes of meeting this target²⁷ be subjected to the scrutiny and approval of an independent expert climate advisory body (such as the re-established Tasmanian Climate Action Council – discussed further below) before it could be adopted, to ensure that they are consistent with internationally agreed climate goals and best available science.

40 In addition, all projects that provide renewable energy that to be counted towards meeting the target should be assessed by the independent, expert body against the principles of ESD to ensure that their social, economic or ecological impacts are properly considered before being adopted.

Recommendation 3: Amend the Act to require Ministers to set and report against sectoral targets based on independent expert advice informed by the best available science and principles of ESD.

²⁵ We note that section 7(1)(d) of the Act does allow for the prescription of sectoral targets in the regulations, however, there is no obligation for these targets to be set. Further, section 9(1)(e) of the Act allows the regulations to “provide for the setting of targets for the State Government, including interim targets and specific targets for specified government agencies or instrumentalities for the reduction of greenhouse gas emissions from their activities in Tasmania”, but again there is no obligation for these targets to be made.

²⁶ These changes were introduced through the *Energy Co-ordination and Planning Amendment (Tasmanian Renewable Energy Target) Act 2020*.

²⁷ Under section 3B of the *Energy Co-ordination and Planning Act 1995*.

(c) Independent expert advice

- 41 Currently, the Act does not provide for an expert, independent advisory panel to provide advice to the Government and Parliament about the best available science in relation to climate change mitigation and adaptation, and to assess and report on progress in relation to meeting targets and implementing adaptation plans. We recommend that such a panel should be established under the Act and that the Act should require Government decision makers to act consistently with the advice of this panel.²⁸
- 42 The work of the Tasmanian Climate Change Office, within the Department of Premier and Cabinet, is commendable. However, we recommend that a larger, broad-based, independent advisory body be established to provide a range of different perspectives to government regarding policy proposals, on-ground feedback and community engagement, and increase the capacity of the Climate Change Office.

Recommendation 4: Amend the Act to re-establish an independent expert climate change body to provide advice on best available science for climate change mitigation and adaptation, and to assess and report on progress in relation to meeting targets and implementing adaptation plans. The Act should also require decision makers to act consistently with the advice of the independent body.

(d) Duties

- 43 As highlighted in the comparative table of legislation (at p 5) in the Discussion Paper, the Act provides little in the way of formal pathways for the implementation of Tasmania's legislative emissions reduction targets. Without clear mechanisms to implement the targets in decision-making, the Act will be ineffective.
- 44 One clear way that formal mechanisms for the implementation of targets could be achieved is through the creation of duties on Ministers and relevant decision makers to make decisions consistently with legislative climate change objects and targets when exercising prescribed functions, particularly in relation to planning functions.
- 45 In previous submissions, we have advocated for amendments to the Act to adopt an approach similar to that in Victoria, which requires climate principles to be addressed in all relevant decisions.²⁹ We recommend that climate change impacts (in regard to mitigation and adaptation), and legislative emissions reduction targets, should be made mandatory considerations in each of the following types of Government decision-making (without limitation):
- (a) Planning decisions, including for major projects and the creation of State Planning Policies, under the *Land Use Planning and Approvals Act 1994*
 - (b) Decisions relating to level-2 activities under the *Environmental Management and Pollution Control Act 1994* including the assessment of new heavy industries, mines and salmon farms;

²⁸ The Tasmanian Climate Action Council was abolished in reforms to the Act in 2014 to "reduce costs".

²⁹ Refer to our previous submission to the Tasmanian Climate Change Office on Amending of the Climate Change (State Actions) Act 2008 dated 7 November 2018, accessed at: <https://www.edo.org.au/wp-content/uploads/2019/12/181107-EDO-Tasmania-submission-re-amendments-to-Climate-Change-State-Action-Act-2008.pdf>

- (c) The development of State Policies and assessment of projects of State significance under the *State Policies and Projects Act 1993*;
- (d) The assessment of major infrastructure developments under the *Major Infrastructure Development Approvals Act 1997*;
- (e) The allocation of water licences, interpretation of emergency provisions, assessment of dam applications and development of water management plans under the *Water Management Act 1999*;
- (f) The development and approval of marine farming development plans and marine farm leases under the *Marine Farming Planning Act 1995*;
- (g) The licencing and regulation of fisheries and marine farm activities under the *Living Marine Resource Management Act 1995*;
- (h) The declaration of threatening processes and development of threat abatement plans, in particular, recognising the need for protection of retreat habitat for species to recolonise in the event of climate-change induced habitat losses under the *Threatened Species Protection Act 1995*;
- (i) The assessment of forest practices plans and three-year harvesting plans, development of the Forest Practices Code, particularly biodiversity management provisions, under the *Forest Practices Act 1985*;
- (j) The assessment of mining lease and production licence applications, development of codes of practice under the *Mineral Resources Development Act 1995*;
- (k) The development and approval of bushfire management plans under the *Fire Service Act 1979*;
- (l) The identification of potential reserve areas, development of management plans, reserve activity assessments and assessing licence applications under the *Nature Conservation Act 2002 / National Parks and Reserves Management Act 2002*.

Recommendation 5: Amend the Act to create a duty on Ministers and relevant decision makers to make decisions consistently with legislative climate change objects and targets when exercising prescribed functions, particularly in relation to planning functions.

(e) Risk assessment

- 46 Since the introduction of the Act, numerous reports and studies have been prepared with a view to quantify the climate change risks faced by different sectors of Tasmania's economy, the community and the environment.³⁰ However, many of these assessments are now out of date. Furthermore, the risk assessments have not always ultimately informed the development of Government policies and initiatives to respond to the risks identified.
- 47 For this reason, EDO recommends that the Act be amended to adopt a high-level process for climate risk assessment, and require specific policies and initiatives for sectors identified at high risk from climate change impacts (e.g. housing, infrastructure, agriculture, energy, insurance, tourism, health).

³⁰ As noted in part 6.2 of the Discussion Paper, the Climate Futures reports have provided the most significant contribution to the Tasmanian Governments risk assessment to date, however many of those reports are now over 10 years old.

Recommendation 6: Amend the Act provide a high-level process for climate risk assessment and require specific policies and initiatives for sectors identified at high risk from climate change impacts (e.g. housing, infrastructure, agriculture, energy, insurance, tourism, health).

(f) Adaptation Plans

- 48 Given the unprecedented risks to human health, the built and natural environments posed by bushfires, flooding, coastal inundation, and extreme temperatures arising from global heating, adaptation plans are a critical component of any good climate change legislation. However, unlike the climate change legislation enacted by other states and territories, the Act currently provides no formal mechanisms for the development of whole-of-government and sectoral adaptation plans.³¹
- 49 While we note that Tasmania has made some progress towards implementing coastal inundation modelling into both the interim and incoming Tasmanian Planning Scheme, significantly more needs to be done to prepare the community for a changing climate.³²
- 50 EDO considers that the approach taken in Victoria could provide an appropriate model for the framework of adaptation plans to be implemented in the Act.
- 51 In Victoria, an overarching state Climate Strategy is required to be published every 5 years, which will provide a statement of priorities and include components on both emissions reductions and adaptation.³³ In the year following the Strategy, nominated portfolio Ministers will be responsible for the preparation Adaptation Action Plans in consultation with the community, covering the following systems:³⁴
- (a) the built environment system;
 - (b) the education and training system;
 - (c) the health and human services system;
 - (d) the natural environment system;
 - (e) the primary production system;
 - (f) the transport system;
 - (g) the water cycle system; and
 - (h) any other prescribed system

Ministers are also responsible for reporting against the implementation and effectiveness of previous Adaptation Action Plans.³⁵

³¹ This is emphasised by the comparative table of legislation (at p 5) in the Discussion Paper.

³² We note that last year, the Tasmanian Government published its draft Bushfire Mitigation Measures Bill 2020. This Bill did not even mention climate change, nor require any strategic planning for bushfire risk under changing climate scenarios. Read EDO's detailed submission on this draft Bill, including how Tasmania could better address bushfire risk here: <https://www.edo.org.au/wp-content/uploads/2020/10/201028-EDO-submission-on-draft-Bushfire-Mitigation-Measures-Bill-2020.pdf>

³³ Section 30 of the *Climate Change Act 2017* (Vic).

³⁴ Refer to Division 2, Part 5 of the *Climate Change Act 2017* (Vic).

³⁵ Section 35(3) of the *Climate Change Act 2017* (Vic).

Recommendation 7: Amend the Act to require a Tasmania-wide Adaptation Plan to be made, published, and periodically reviewed by the Minister on advice from the independent statutory climate change advisory body. Sectoral and regional adaptation plans should also be made by portfolio Ministers consistent with the jurisdictional adaptation plan.

(g) Monitoring progress

- 52 EDO acknowledges the existing monitoring and reporting measures in the legislation. Under the *Climate Change (Greenhouse Gas Emissions) Regulations 2012*, the Minister for Climate Change is responsible for publishing Tasmania's annual reduction in GHG emissions each year. The Act further requires an independent review of the operation of the Act and the progress towards the achievement of its objects every 4 years.³⁶
- 53 Despite these measures being a good start, more needs to be done to improve the consistency and rigour of public reporting on emissions reduction activities, consistent with objective 4(d) of the Act. For example, as discussed above, each government department should be required to report against sectoral emissions reduction targets. Furthermore, departments should be required to describe all emissions reduction and adaptation planning efforts in their annual reports.

Recommendation 8: Amend the Act to require the development of Tasmanian-wide indicators, including for emissions reduction in line with set targets, adaptation planning and climate readiness of legislation; and require Ministers and departments to regularly report against those indicators.

(h) Governance

- 54 EDO congratulates the Premier on appointing himself Minister for Climate Change as one of his first acts in the role. This appointment signals the importance of this portfolio and the need for it to coordinate government-wide action. EDO expects that in this role, the Premier will set a level of ambition in Tasmania's GHG emissions reduction targets reflective of Tasmania's current prime position to become both a national and world-leader.
- 55 We further strongly commend the work of the Tasmanian Climate Change Office and its position within the Department of Premier and Cabinet. While the Office has been proactive in advising the Government in its response to the risks and opportunities posed by climate change, its effectiveness at coordinating a whole-of-government response has been hindered without any legislative imperative to require other Ministerial portfolios and departments to embed climate change as a consideration in decision-making and reporting.
- 56 As we have outlined above, the work of the Office would be assisted by advice from an independent statutory climate change advisory body to provide independent advice and oversight of the Government's GHG emissions reduction strategy and adaptation planning.

³⁶ Section 18 of the Act.