



To the Social Policy Scrutiny Committee

Submission on the Environment Protection Bill 2019

From: Climate Action Darwin, Community group

Submitted 14 June 2019 via SPSC@nt.gov.au

Climate Action Darwin

Climate Action Darwin is a local, unincorporated community group with a network of approximately 700 supporters, coordinated and supported by volunteers. Our network of volunteers and supporters is growing rapidly in response to the mounting evidence of the dangerous pace of climate change and the increasing desire of community members to call for improved regulation, administration and urgent action in response to the global climate crisis.

We are united by the vision of 'a safe climate for all' and a passion for a thriving community in Darwin (including Palmerston), which requires a transition to a sustainable economy. We work to educate the Darwin community about the local impacts of climate change and its many local solutions. We advocate for strong policies to reduce the Territory's greenhouse gas emissions and transition the NT economy into a sustainable, renewable and thriving economy.

We make this submission grounded in our love for the lands and waters of the Territory, as the largest specifically climate-focused community group in the Territory, seeking to represent our fellow Territorians' passion for our natural environment and all the benefits it provides to our communities.

Direct local impacts climate change

We are deeply concerned by the impact that global warming is projected to have on the long-term habitability of Darwin and Palmerston, and across the Northern Territory, and on the wellbeing of our communities. Below is a small number of examples of impacts projected and already occurring.

A. Heat

Darwin already has more days over 35°C, from 5.6 each year on average a century ago to 22.2 per year now. Without rapid cuts to greenhouse gas pollution, in 2030 Darwin is likely to have 132 days (ie 4 months) over 35°C per year, and 275 days (ie 8 months) over 35°C each year in 2070.¹

¹ See:

- https://www.climatechangeinaustralia.gov.au/media/ccia/2.1.6/cms_page_media/168/CCIA_2015_NRM_TechnicalReport_WEB.pdf;
- <http://www.tai.org.au/sites/default/files/P510%20Cooked%20with%20gas%20-%20Darwin%20days%20over%2035C%20FINAL.pdf>



Due also to increasing heat, it is predicted there will be no male sea turtle hatchlings born at the Bare Sand Island hatchery near Darwin within eleven years.²

B. Sea level rises

The sea-level in the Darwin region has risen 17 cm in the past 20 years, which makes it one of the highest rates in the world. It is currently rising at a rate of 7mm each year, and this rate is rapidly increasing.³

C. Health and wellbeing

Longer, more frequent and extreme heatwaves will make it more uncomfortable for visitors and residents of the NT, as well as increasing heat stress. Heat stress puts young children and the elderly at particular risk of dying from heatstroke or heart attack.⁴

More extreme hot days and heat waves could further compromise the health of people with cardiovascular disease and respiratory diseases such as asthma.⁵ Heat-related mortality and morbidity, mosquito-borne disease (e.g. Ross River virus, Dengue fever) and infectious disease epidemics (e.g. melioidosis and enteric diseases) are projected to increase as a result of higher temperatures and increased humidity.⁶

Rising temperatures are leading to increased levels of stress, worsening anxiety and depression, and even suicide in the most extreme cases in Australia.⁷

D. Economic Impacts, including tourism

If current emission rates continue, climate change is predicted to cost Australian households roughly \$20,000 per year, not including the impact of extreme weather events. NT cattle exports are projected

-
- https://interactive.carbonbrief.org/impacts-climate-change-one-point-five-degrees-two-degrees/?utm_source=web&utm_campaign=Redirect
 - State of the Climate 2016, Australia Government, <http://www.bom.gov.au/state-of-theclimate/State-of-the-Climate-2016.pdf> Accessed 29 November 2018

² https://espace.cdu.edu.au/eserv/cdu:8990/Guinea_8990.pdf

³ State of the Climate 2016, Australia Government, <http://www.bom.gov.au/state-of-theclimate/State-of-the-Climate-2016.pdf> (Accessed 29 November 2018)

⁴ "Heatwaves and Health in Australia", Factsheet, Doctors for the Environment, Australia, 2016.

⁵ Zhang, Y. et al. "The MJA-Lancet Countdown on health and climate change: Australian policy inaction threatens lives". Med. J. Aust. 2018.

⁶ Nikolakis, Nygaard, and Grafton, "Adapting to Climate Change for Water Resource Management: Issues for Northern Australia", Environmental Economics Research Hub Research Report 108, ANU; Green, "Climate Change and Health: Impacts on Remote Indigenous Communities in Northern Australia", CSIRO, 2006.

⁷ <https://www.smh.com.au/environment/climate-change/mental-health-added-to-impact-of-climatechange-as-global-damage-grows-20181129-p50j2d.html> ; <https://pursuit.unimelb.edu.au/articles/the-great-climate-depression>



to decline by 19.5% by 2030 due to climate change. Workforce productivity and food security is already being affected.⁸

The Kakadu National Park floodplain is only 0.2–1.2m above sea level, making it vulnerable to even minimal sea level rise. 50 to 80% of Kakadu’s beautiful freshwater wetlands are predicted to be destroyed in the next fifty years.⁹ In Central Australia, outdoor tourism during summer has already become hazardous.¹⁰

Interrelationship of all environmental impacts and Territory-wide climate action

We recognize that many aspects of the Bill strengthen the NT’s Environment Protection regime and we commend the Honourable Minister Lawler for these achievements in this Bill. However, we make this submission in response to the Bill’s failure to ensure that the climate impacts of proposals will be specifically considered.

We note that the Government is preparing a ground-breaking climate strategy, under the leadership of the Department of Chief Minister, to ensure that all areas of government work together to achieve the required reductions in greenhouse gas emissions across Territory economy and society, and transition to a sustainable economy and society. We strongly support the vital planning process across Government. It is inconsistent with this important policy work that the most directly relevant function of the Territory Government – environmental impact assessments – would not require the consideration of greenhouse gas emissions.

Community expectations

It is unacceptable in 2019 for environment protection legislation to remain silent in relation to greenhouse gas emissions.

We **emphasise** that ‘business as usual’ activities are projected by the Intergovernmental Panel on Climate Change to lead to catastrophic climate change.¹¹ In the context of this undisputable scientific evidence, it is unacceptable for the Territory’s legislature to enact legislation that does not clearly require climate impacts of development to be considered on their merits.

Hypothetically, if there were any doubt about the detrimental and dangerous impacts of climate change on the Territory and its communities, the precautionary principle – which is appropriately

⁸ Department of Climate Change and Energy Efficiency, “Impact of Climate Change on Northern Territory”, 2010.

⁹ Bayliss et al., “An Integrated Risk-Assessment Framework for Multiple Threats to Floodplain Values in the Kakadu Region, Australia, under a Changing Climate”, *Marine and Freshwater Research*, Vol 69, Iss. 7, 2018.

¹⁰ <https://www.abc.net.au/news/2018-11-09/outback-deaths-temperatures-danger-travelmobile/10480736>

¹¹ <https://www.ipcc.ch/sr15/>; <https://www.ipcc.ch/report/emissions-scenarios/?idp=27>. See also for example <https://www.businessinsider.com.au/ipcc-climate-change-report-why-2-degree-warming-is-dangerous-2018-10?r=US&IR=T> ;



included in the Bill – requires the Territory to take all reasonable steps to avoid these potential detrimental effects.

There are often significant greenhouse gas emissions from major projects which have historically been important in driving the Territory economy and creating jobs, but there now exist sustainable industries and technologies such as renewable power generation and sustainable tourism that will unlock **greater long-term economic value** including more and longer-term **jobs for Territorians**, and **grow our exports**.

In 2019 and beyond, the Territory's well-being is not tied to greenhouse-intensive developments: to the contrary, our wellbeing is tied to sustainable developments and the rapid draw down of atmospheric greenhouse gases. The community expects government policies and administrative decisions to be informed by up-to-date scientific and technological evidence.

Submissions for amendments

Climate Action Darwin submits that the Bill **requires amendments** to comply with well-established requirements to rapidly reduce greenhouse gas emissions, and Australia's international legal commitments under the Paris Agreement under the Framework Convention on Climate Change to reduce greenhouse gas emissions. The Paris Agreement represents a commitment to cooperation between all the world's nations, states, cities, communities and industries.

Specifically:

1. The Objects of the Bill must include reducing the Territory's greenhouse gas emissions.

The Territory has at its disposal a wide range of tools and rapidly-increasing opportunities to implement a range of climate policies and actions, including:

- a. reducing the Territory's greenhouse gas emissions from all sources and land uses to the fullest extent possible, and at least in accordance with Australian targets under the Paris Agreement;
- b. requiring the proponents of actions to utilize the most greenhouse gas emission-neutral technologies and methodologies available;
- c. avoiding, reducing or offsetting greenhouse gas emissions from all actions, in that order of priority; and
- d. increasing greenhouse gas storage and sequestration, including by ecosystem restoration measures.

It is wholly unacceptable in 2019 for environment protection legislation to remain silent in relation to greenhouse gas emissions, in the Northern Territory or any other jurisdiction. Without express objectives and relevant considerations related to greenhouse gas emission reductions, the Government may lack the power to set important conditions, including offset requirements, within approvals.



2. The Objects of the Bill must not include the clause limiting environmental impacts to impacts on the environment 'of the Territory'.

This clause is unnecessary, and creates an ecologically and physically artificial boundary for impacts of actions which must be considered, under the objects of the Bill, if caused by actions within the Territory's jurisdiction. We consider that such a clause in environmental legislation of the Territory's neighbouring jurisdictions would be unacceptable, and that each jurisdiction has obligations to avoid harm to other jurisdictions, which is well-established in the principle of avoiding transboundary harm.

3. Reducing greenhouse gas emissions must be a relevant consideration for the Minister, the Environment Protection Authority, CEO and every other decision-maker throughout the Bill.

To accord with community expectations and to provide consistency within the Bill, section 73 must include climate impacts as a relevant consideration.

Please refer further to the reasoning for our submission number 1 above.

4. The word 'economy' must be deleted from the definition of Environment.

The objects of this Bill, including its title 'A Bill for an Act to provide for the protection of the environment', are inconsistent with a requirement that a broad and undefined 'economic' aspect be a relevant consideration. The contradiction in the current definition appears likely to create unnecessary litigation. The Committee has the opportunity to correct this significant drafting error, and should recommend an amendment deleting the reference to 'economy' in this definition to achieve consistency with the Bill's purpose.

The purpose of this Bill, and the proper powers of the Environment Minister and Environment Protection Authority, are not to set economic policy and drive investment, but to protect the environment.

5. The definition of a 'significant' impact is too narrow, and should be based on the definition used under the *Environment Protection Biodiversity Conservation Act 1999* (Cth), being:

*A 'significant impact' is an impact which is important, notable, or of consequence, having regard to its context or intensity. Whether or not an action is likely to have a significant impact depends upon the sensitivity, value, and quality of the environment which is impacted, and upon the intensity, duration, magnitude and geographic extent of the impacts...*¹²

There should not be an element of the monetary value of an action in defining its impacts.

¹² Matters of National Environmental Significance – Significant Impact Guidelines:
https://www.environment.gov.au/system/files/resources/42f84df4-720b-4dcf-b262-48679a3aba58/files/nesguidelines_1.pdf



6. Standing to seek merits review must be expanded.

The community has a very strong common interest in the environment, and community members are all 'affected persons' in relation to climate impacts. The community expects that everyone has access to administrative processes in matters considered under the Bill.

Climate Action Darwin submits that, in practice, standing should at least extend to any person or organization who has made a submission in relation to an environmental assessment process, or who/which has a particular expertise or interest in environmental matters or potential impacts of an action.

We are concerned that a broader right to seek merits review has been removed from previous drafts of the Bill, contrary to growing community concern about environmental protection and the climate crisis. We consider that restoring rights to merits review is crucial for community confidence in the government's environmental protection processes into the future.

7. Standing to seek judicial review must be expanded.

Our submission number 6 above equally applies to the need for judicial review rights. Climate Action Darwin submits that, in practice, standing should at least extend to any person or organization who has made a submission in relation to an environmental assessment process, or who/which has a particular expertise or interest in environmental matters.

8. Opportunities for proponents to be consulted during environmental assessment processes must be removed or replaced with fully transparent processes that provide for equivalent public participation.

Environment protection is the concern of all Territorians, and the community must have access to participation in approvals processes which is at least equal to proponents' access. We are very concerned that this Bill allows for consultation with proponents during the assessment process, effectively behind closed doors, and we expect that such processes will seriously diminish community confidence in the our environmental protection regime and in the office of Environment Minister.

Conclusion

If amendments to the effect of the above submissions are made, then Climate Action Darwin would support the passage of the Bill.

We thank the Committee for the opportunity to provide this submission and welcome any further consultative process in relation to the Bill and its regulations.