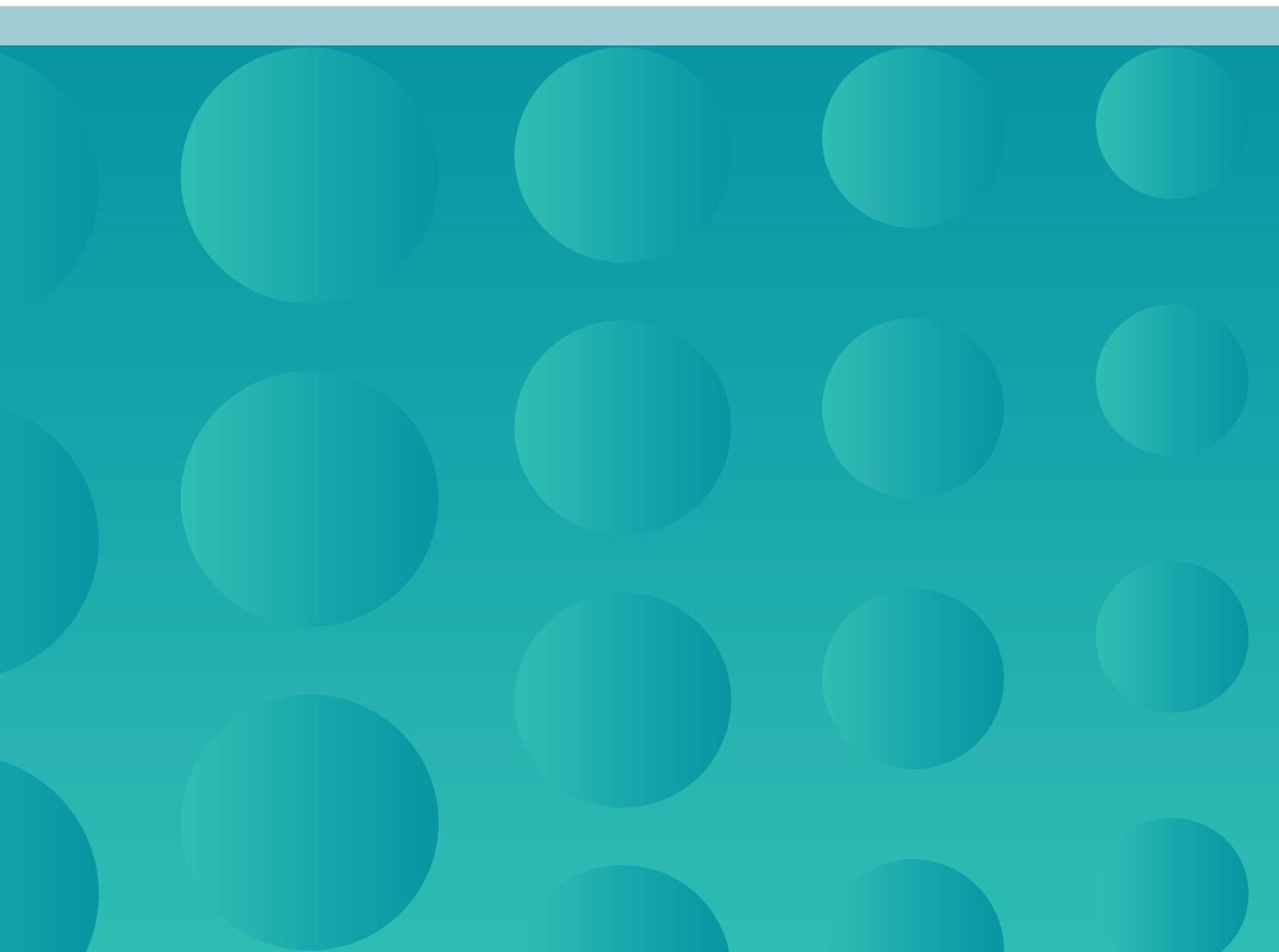


Victorian Government response to the Climate Change Act Review

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Response to the Review of the *Climate Change Act 2010*

The Victorian Government accepts the majority of the recommendations of the Review of the *Climate Change Act 2010* which help align Victoria's legislation with the Commonwealth *Clean Energy Act 2011*.

The Victorian Government acknowledges there is risk posed by climate change and a need to support national and global action to reduce greenhouse gas emissions.

Such reductions need to take place in a way that minimises the impact on the economy and on Victorian households and businesses.

Importantly, Victoria's *Climate Change Act 2010* was enacted at a time when there was no national framework for emissions reductions.

However, in November last year the climate change policy landscape was fundamentally transformed after the Commonwealth Government passed the *Clean Energy Act 2011*. This legislation necessitated State Government reconsideration of emissions mitigation policy.

The Commonwealth's legislation supports a goal of reducing Australia's carbon emissions to 5% below that of 2000 levels by the year 2020.

It is imperative that emissions reductions take place in a way that minimises the impact on the economy, households and businesses, so that Victorians are not unfairly disadvantaged.

The Victorian Government accepts the Review's finding that the carbon price is the primary means through which the national emissions target will be met.

Consequently, the role for State and Territory governments in Australia to legislate for emissions reductions is significantly reduced.

This has also been the finding of:

- The *Strategic Review of Australian Government Climate Change Programs*¹ which sought "a commitment by States and Territories to withdraw from policies or programs with the potential to undermine the ETS [Emissions Trading Scheme]".
- Federal Climate Change Minister Combet – who has stated that "[the national carbon price] is the most efficient least cost way of reducing pollution in our economy" and "I will be having discussions with my state counterparts in coming months about this issue."²

The Government also accepts the Review's findings that, in light of the national carbon price, State and Territory Governments need to reduce their role in emissions mitigation and instead focus on managing and adapting to climate risks and supporting their economies under a carbon price.

Accordingly, the Victorian Government will:

- Remove elements of the *Climate Change Act 2010* that become redundant with a national emissions reduction scheme in place;
- Remove elements of the *Climate Change Act 2010* that will no longer deliver environmental benefit and will instead only increase costs for Victorian households and businesses; and
- Continue to support elements of the *Climate Change Act 2010* that support Victorian adaptation to climate change and adjustment to a carbon price.

In line with these goals the Victorian 2020 emission reduction target will be removed.

The redundancy of a State-based target in the presence of a national carbon price is well understood. For example:

- Professor Ross Garnaut stated "The introduction of the CPRS means that there is no longer any value in state and territory government setting their own binding targets for reducing statewide emissions."³
- The previous Victorian Labor Government stated that it "does not see any benefit in legislating for a state-based emissions reduction target that is inconsistent with a national target."⁴

1 Strategic Review Of Australian Government Climate Change Programs, Roger Wilkins AO, 2008
<http://www.finance.gov.au/publications/strategic-reviews/docs/Climate-Report.pdf>

2 The Hon Greg Combet AM MP, National Press Club, Canberra 23 August 2011

3 Victorian Climate Change Green Paper, 2009

4 Ibid.

While the Government recognises the symbolic importance of the Target to many stakeholders, the reality, as acknowledged by the Review, is that such a target will not drive significant additional emissions abatement once a national scheme is in place.

Further, the Government notes that the Review found that:

- The Target lacks concrete measures in legislation to achieve it; and
- Meeting the Target would burden Victorians with over \$2 billion in additional costs – for example through higher taxes to purchase international emissions offsets, or higher electricity prices should high-emitting electricity generators be forced to close.

The removal of the Target has flow on consequences to other elements of the *Climate Change Act 2010*, which will also be amended, including:

- The mandate for the Environment Protection Agency of Victoria to recommend regulations for the purposes of contributing to the Target; and
- The need for biannual reporting of progress against the Target.

A further amendment to be introduced by the Government includes returning the legislated name of the 'Climate Communities Fund' to its original name of the 'Sustainability Fund', as this better reflects the purpose of the Fund.

Of further relevance to this Review, while launching the draft Energy White Paper in December last year, the Federal Minister for Resources and Energy, Martin Ferguson stated:

“I am also today announcing that the Commonwealth will no longer proceed with the introduction of emissions standards or CCS Ready requirements for new coal fired power stations.”⁵

In view of this, the Victorian Government will clarify its position on the need for separate emission standards for new power stations without delay.

The Government will continue to support measures in the *Climate Change Act 2010* consistent with the appropriate role of State Governments in climate change policy. These measures will support management of and adaptation to climate risks and increase the ability of individuals, businesses and communities to capitalise on opportunities arising from the carbon price. These include:

- Retaining the four-year Climate Change Adaptation Plan, which will provide Victoria-specific information about major climate-related risks and will now incorporate updates of the most recent climate science;
- Retaining decision making provisions to guide government, business and community stakeholders on how climate change should be considered; and
- Increasing the ability for Victorians to offset their carbon emissions through participation in the Commonwealth Government Carbon Farming Initiative by clarifying rights for private sequestration projects on Crown land.

A full list of the Government's response to individual recommendations is outlined in *Attachment A*.

The Government will seek to amend the *Climate Change Act 2010* to reflect these changes as soon as practicable.

⁵ Launch of the Draft Energy White Paper, the Hon Martin Ferguson AM MP, Minister for Resources and Energy and Minister for Tourism, Melbourne, 13 December 2011.

Attachment A: Response to recommendations of the Climate Change Act Review

Recommendation 1

In the presence of the national emissions trading scheme, the 20 per cent emissions reduction target should be repealed.

Response: Support

In the presence of the Commonwealth Clean Energy Package, the Victorian 20 per cent emissions reduction target (the Target):

- will not drive significant additional emissions abatement once a national emissions trading scheme is in place;
- would inhibit Victoria's economic growth and impose large costs on the Government and the community;
- would mean Victorians face higher costs, while reducing incentives for businesses in other States to lower their emissions; and
- would likely create further regulatory uncertainty for businesses, particularly in the energy generation sector.

Repealing the Target is consistent with requests from the Commonwealth Government for the States to review their climate change programs in light of the introduction of the Clean Energy Package.

Recommendation 2

The guiding principles (Section 7) should be incorporated into the Ministerial Guidelines (Section 15).

Response: Support in part

The Victorian Government agrees the guiding principles are conceptually sound and supports consideration of these principles in Ministerial Guidelines where appropriate.

The guiding principles provide a basis for managing climate risks and are a key input to the development of the Climate Change Adaptation Plan (see Recommendation 4). The relationship between the guiding principles and the Climate Change Adaptation Plan will be clarified.

Recommendation 3

The decision making requirements should be retained, with ongoing monitoring of their effectiveness.

Response: Support

The ongoing effectiveness and consideration of the scope of these requirements will be considered at the next scheduled review of the *Climate Change Act* in 2015.

Recommendation 4

The Climate Change Adaptation Plan should be retained, with some amendment.

Response: Support

Victoria's first Climate Change Adaptation Plan is currently being developed. Ensuring appropriate ownership of risks will be a key focus of the Plan. This includes both the appropriate allocation of risk between the public and private sectors, as well as the coordination across all relevant government activities. Consideration will also be given to defining key terms such as 'state-wide priorities' and 'strategic responses'.

Recommendation 5

The climate change science reporting requirements should be incorporated into the Climate Change Adaptation Plan to provide context for the Plan.

Response: Support

Recommendation 6

The remaining reporting elements relating to emissions reporting should be repealed if the Target is repealed.

Response: Support

The Victorian Government notes that Victoria's greenhouse gas emissions are currently reported through the National Greenhouse Accounts. Removing this reporting requirement will remove unnecessary duplication.

Recommendation 7

The carbon sequestration elements should be retained.

Response: Support

The Victorian Government supports facilitating the participation of Victorian landholders in carbon sequestration projects under the Commonwealth Government's Carbon Farming Initiative. These provisions ensure Victoria's natural resource and agricultural sectors can access the economic opportunities provided for under the Carbon Farming Initiative.

Recommendation 8

Should the Government wish to facilitate private sequestration projects on Crown land, rights for these parties must be clarified or recognised.

Response: Support

The Department of Sustainability and Environment is currently assessing the nature of potential opportunities and implications of private parties undertaking carbon sequestration projects on Crown land under the Commonwealth Government Carbon Farming Initiative. To ensure the *Climate Change Act 2010* does not preclude the potential for Victoria to participate in all aspects of the Carbon Farming Initiative, the Government will clarify relevant provisions in the *Climate Change Act 2010*.

Recommendation 9

The definition of greenhouse gas as a 'waste' within the Environment Protection Act 1970, and the function for the Environment Protection Authority of Victoria to develop⁶ greenhouse gas regulations to reduce harm to the environment should be retained.

Response: Support

The Environment Protection Authority of Victoria (EPA) powers to regulate greenhouse gas emissions for climate change and non-climate change purposes existed prior to the introduction of the *Climate Change Act 2010*. Clarifying the definition of waste to specifically include greenhouse gas emissions enhances certainty around the EPA's regulatory role.

Recommendation 10

The mandate for the Environment Protection Authority of Victoria to develop⁷ greenhouse gas regulations for the purposes of contributing to the Target should be repealed, should the Target be repealed (as recommended by the Review).

Response: Support

As the Target will be repealed, the EPA mandate to regulate greenhouse gas emissions to contribute to the Target is not required.

⁶ 'Develop' refers to the EPA's function to recommend regulations to the Governor in Council.

⁷ Ibid.

Recommendation 11

The Environment Protection Authority of Victoria should assess the future application of its greenhouse gas regulation powers in the context of the Commonwealth carbon price/emissions trading scheme legislation and provide greater certainty to stakeholders through a statement of regulatory intent.

Response: Support

To ensure certainty for stakeholders around any future application of EPA regulatory powers, the Victorian Government will release a statement of regulatory intent by December 2012 outlining how the EPA's regulatory provisions under the *Environment Protection Act 1970* are to be applied.

Recommendation 12

The Climate covenants provisions should be repealed.

Response: Support

The Victorian Government agrees that the Climate Covenants model lacks clear objectives, regulatory underpinning and transparency, and its intent can instead largely be achieved through the more robust alternatives of Sustainability Covenants or the Sustainability Fund [now Climate Communities Fund].

The Government notes there has been no demand to date for Climate Covenants, potentially owing to the similarity of these agreements to the well-established Sustainability Covenants.

Recommendation 13

The amendments to the Sustainability Fund [now the Climate Communities Fund] should be retained.

Response: Support in part

The legislated name of the fund will be returned to its original name of the 'Sustainability Fund', rather than 'Climate Communities Fund', as this better reflects all environmental programs in Victoria.

Recommendation 14

The Government should develop a clear and robust funding allocation framework for the Sustainability Fund [now the Climate Communities Fund] that differentiates between programs aimed at climate change mitigation and adaptation.

Response: Support

The Government agrees that a robust framework for allocations from the Fund must be developed. The Department of Sustainability and Environment, working with the Department of Treasury and Finance and Sustainability Victoria, has already begun work in this area following recommendations from the Review into Sustainability Victoria's Strategic Direction.

Recommendation 15

The Preamble and Purpose sections should be retained.

Response: Support in principle

The Victorian Government will consider the need for a Preamble as it develops the legislative response to the Review. The Purpose sections will reflect the content of the amendment Bill.

Recommendation 16

The Policy Objectives section should be repealed, because its application to the Climate Change Act 2010 is limited.

Response: Support

The Victorian Government accepts the Review's findings that the Policy Objectives do not specifically apply to any section of the *Climate Change Act* nor influence its practical operation.

