

2010

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

CLIMATE CHANGE AND GREENHOUSE GAS REDUCTION BILL 2010

EXPLANATORY STATEMENT

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Outline

The Bill promotes action by the Government, community and businesses to address climate change. The Bill sets targets for reducing greenhouse gas emissions in the Australian Capital Territory (ACT), provides for monitoring and reporting in relation to targets and functions performed by the Minister and will promote community and business engagement in climate change mitigation and adaptation through the establishment of the Climate Change Council and sector agreements.

The Bill sets out targets for the ACT:

- to reduce by 30 June 2020 greenhouse gas emissions by 40% of 1990 levels;
- to reduce by 30 June 2050 greenhouse gas emission by 80% of 1990 level
- achieve zero net emissions by 2060.

The Bill also establishes a target of per person greenhouse gas emissions peaking by 2013 and allows for renewable energy targets for the ACT to be prescribed in regulation.

A key mechanism to ensure effective legislation and community engagement will be the adequate and timely public reporting of the ACT's progress in reducing its greenhouse gas emissions and addressing climate change. While the Government or community are not bound by offence/enforcement penalties for meeting targets, and sector agreements are voluntary, the Bill does mandate regular reporting to the Assembly on progress in meeting targets and functions of the Minister.

The Bill provides authority for the Minister to establish a Climate Change Council to advise the Minister on policies related to reducing GHG emissions and adapting to climate change. The Council will strengthen collaboration between Government, community and business through consultation and cooperation in identifying actions or strategies for reducing greenhouse gas emissions and addressing climate change.

The Bill allows the Government to enter into sector agreements with a particular person, entity, and industry or business group on a voluntary basis to encourage private entities to take action and adopt strategies to reduce greenhouse gas emissions or to adapt to climate change.

The Bill facilitates the Government working with business and the community to develop and put in place strategies that will put the ACT in a position to take early action to reduce greenhouse emissions and adapt to climate change.

Detailed Explanation

Part 1 Preliminary

Clause 1 provides for the name of the legislation as the Climate Change and Greenhouse Gas Reduction Act 2010 reflecting that the Act relates to both the cause and impacts of climate change.

Clause 2 provides for the commencement as the day fixed by the Minister by written notice.

Clause 3 provides for the dictionary to be part of the legislation.

Clause 4 explains that notes included in the Act are explanatory and are not in themselves part of the Act.

Clause 5 sets out the objects of the Act. The objects are aimed at reducing greenhouse gas emissions and increasing renewable energy use and generation in the ACT. The objects are to put in place monitoring and reporting of progress against these targets, and to facilitate the development of policies and programs to meet those targets.

The Bill's objects provide that private entities should be encouraged take action and be recognised for actions that contribute to the targets, and in addressing climate change.

The objects recognise that policies and programs will also need to be developed to address and adapt to unavoidable climate change.

Part 2 Targets

Clause 6 sets out the principal target of zero net emissions by 2060 in the ACT, noting that total emissions will be reduced through avoidance and mitigation activities, and may be offset outside of the ACT. Greenhouse gases that are included in the legislation are described in the dictionary. There is no baseline needed for this measurement because it is an absolute value.

Clause 7 sets out interim targets that will be measured against a baseline of 1990 emissions. The 1990 baseline reflects the current commitments of parties to the Kyoto Protocol under the United Nations Framework Convention on Climate Change. While the Australian Government is signatory to the Protocol rather than individual jurisdictions, the 1990 baseline would provide for comparison of the ACT's progress to parties to the Kyoto Protocol. Use of financial year

reporting for greenhouse gas inventories is consistent with the national Greenhouse Gas Inventory, and international processes for greenhouse gas accounting.

Clause 8 sets out per capita targets for greenhouse gas emissions to peak by 30 June 2013. A per-capita peaking target will provide an interim target for progress that is independent of population growth.

Clause 9 provides for the prescription of renewable energy targets for the use or generation of renewable energy in the ACT given the strong link between reductions in greenhouse gas emissions and increases in renewable energy generation.

Clause 10 requires that the Minister must determine a method for measuring greenhouse gas emissions and that this would be a disallowable instrument. The aim of this clause is to ensure that methods for measuring greenhouse gas emissions are rigorous and transparent.

Clause 11 provides for a report by an independent entity on greenhouse gas emissions and targets that are outlined against clauses 6 to 9 of part 2 of the bill. The clause provides that the emissions must be measured against the methodology established under clause 10. The aim of clause 11 is to ensure transparency in reporting against the target at arms length from government.

The report is intended to provide analysis that compares progress against the intent of the targets, to identify the main source of emissions and to elucidate the reasons for changes. The purpose of these requirements is to enable the government to maintain and adjust its policy and program settings to build on successful outcomes and to take account of broader changes in Australian and international policy, and in society that could impact on progress towards the targets.

The clause provides statutory timeframes for reporting.

Part 3 Functions of the Minister

Clause 12 sets out the functions of the Minister in relation to the Act, and in climate change generally. This provision acknowledges that action on climate change and reporting against zero net greenhouse gas emissions by 2060 requires a formalised and ongoing Ministerial responsibility.

The clause recognises that ACT action needs to occur within regional, national and international contexts.

It also recognises that the community and business sectors have important contributions to make and that the problem of climate change is not one that the Government can address on its own. The Climate Change Council (established through Part 4) is also recognised in this clause because of the expertise and assistance it can provide to the Minister in exercising the Minister's functions.

Clause 13 establishes that the Minister must provide a report on activities and actions taken during the year against the range of functions outlined in clause 12. The clause provides that all government agencies as defined in the Public Sector Management Act 1994 must report any policies developed and programs implemented to address climate change, greenhouse gas emissions and any targets identified in part 2, which would include renewable energy targets. This report differs from that identified in clause 11 in its focus on actions and activities which will contribute to the outcomes that are the subject of clause 11.

The clause provides that the Minister must provide the report for the legislative assembly within 6 months of the end of the financial year to which the report pertains.

Part 4 Climate Change Council

Clause 14 establishes the Climate Change Council as an entity.

Clause 15 establishes the functions of the Council to advise the Minister in two key areas:

1. Reducing greenhouse gas emissions; and
2. Addressing and adapting to climate change

A number of key areas where the Minister is to receive advice are outlined including energy efficiency, renewable energy generation, meeting targets, and community and business view on climate change. The clause also identified that advice on private actions, and action taken to encourage private actions may be the subject of advice.

The Council may also advise on a range of practices, policies and technological developments used elsewhere that may be of use in the ACT to reduce greenhouse gas emissions and address climate change. The clause identifies that additional functions may be allowed under the ACT which aims to provide flexibility in the functions as long as they assist in implementing the provisions of the Act.

The clause provides guidance to the Council on how it must go about developing its advice to the Minister. This aims to ensure that a wide range of views are captured in the advice, and that the advice has a broad contextual basis.

The clause provides that the Council must consider reports from the independent entity outlined in clause 11, and any other report referred to the Council by the Minister. The clause aims to ensure that advice from the Council is well informed. The clause also provides that the Council must give consideration to social, economic and environmental impacts and national and international developments to ensure the advice is comprehensive and well considered.

Clause 16 aims to ensure that relevant advice from the Council is considered by the Minister in the exercise of the Ministerial functions.

Clause 17 establishes the membership arrangements relating to the Council. The clause aims to establish a Council that is of workable size of 5 to 9 members from a range of community and business interests and scientific expertise. The clause allows that conditions of appointment are those stated in the appointment.

Clause 18 provides that the Chair of the Council is to be appointed by the Minister.

Clause 19 sets out the circumstances in which the Minister can terminate an appointment to the Council. This includes arrangements for the Council to recommend with a two-thirds majority the termination of a member's appointment. The aims of this clause is to ensure a transparent process and reasonable grounds for termination of a member's appointment.

Part 5 Sector Agreements

Clause 20 allows the Minister to enter into voluntary sector agreements to reduce greenhouse gas emissions, increase renewable energy sources, and offset greenhouse gas emissions where these are consistent with the objects of the Act. Regulations may prescribe requirements for sector agreements,

Once agreed a sector agreement is a notifiable instrument. The aim of this clause is to formally recognise sector partnerships that will contribute to the purpose of the act to reduce greenhouse gas emissions to meet the targets established under the Act.

Part 6 Miscellaneous

Clause 21 provides that the Minister must review the operation of the Act and its subsidiary instruments after the first five-years and each subsequent ten years of the Act's operation.

An initial review after five years will identify any required immediate changes to policy settings early in the operation of the Act. Subsequent reviews every ten years are considered sufficient to take account of changes in the broader policy context, developments in scientific knowledge and progress against the targets.

Clause 22 provides a broad regulation making power.

The **Dictionary** provides a definition of greenhouse gas emissions and provides that other gases may be included if they are prescribed by regulation. The definition of Council refers to the Climate Change Council established under clause 14.