

From the desk of Daniel Wild, Deputy Executive Director
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Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

LABOR NET ZERO BILL TO INVITE ENVIRONMENTAL LAWFARE AND CRIPPLE REGIONAL AUSTRALIA

Dear Secretariat,

The Institute of Public Affairs appreciates the opportunity to make a submission to the Senate Standing Committees on Environment and Communications inquiry into the *Climate Change (2022) Bill* and *Climate Change (Consequential Amendments) Bill 2022*.

These Bills seek to legislate, among other matters, a reduction to emissions by 43 per cent by 2030, and for emissions to be reduced to net zero by the year 2050, which will risks imposing significant economic, social, and humanitarian costs on Australians.

Perhaps no other policy better underscores the detachment of the political class from the mainstream of society than that of the pursuit of net zero emissions by 2050. Mainstream Australians resoundingly rejected the policy of net zero emissions by 2050 at the 2019 election, known then as the ‘climate election’, just as six years earlier they resoundingly rejected the carbon tax.

However, at the recent federal election, they were only offered a choice over how the policy of net zero emissions, as the former Coalition Government reneged on its election commitment during its last term and both major political parties adopted net zero into their policy platforms.

Added to this has been almost unanimous support for net zero among many of Australia’s major institutions, academia, major businesses, and most sections of the media. As a result, the policy of net zero has received little scrutiny or debate, and there is a lack of transparency over its potential costs, and who in the community will incur those costs.

The IPA has established a significant body of research and analysis, over many years, on various climate change and emissions reduction related proposals offered by both sides of

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politics, including the Kyoto Protocol, the Emissions Trading Scheme, the National Energy Guarantee, and the Paris Climate Agreement.

More recently, the IPA's research has been focussed on the potential economic and social costs of net zero, including in relation to the potential impact on employment, regional economic development, and electricity prices.

Building on this significant body of research and analysis, the IPA has identified five key consequences of the Albanese Government's proposed climate legislation.

1. The government's climate legislation will invite a torrent of legal activism by fringe environmental groups.
2. The government's climate legislation will impose significant and irreparable economic damage and significant job losses, with regional Australians hardest hit.
3. The government's climate legislation will put even further upward pressure on rapidly rising electricity prices.
4. The government's climate legislation contains a 'ratchet clause' which risks ceding parliamentary authority to international organisations through further embedding the Paris Climate Agreement.
5. The government's climate legislation contains measures which are not supported by the majority of Australians.

Each of these matters is elaborated upon below.

I would welcome to opportunity to provide further evidence before the Senate Committee, and to provide further information in relation to any questions you may have.

Kind regards,

Daniel Wild
Deputy Executive Director

Enclosed:

- Report #1: Australia's Net Zero Energy Crisis: An analysis of the electricity price implications of net zero by 2050*
- Report #2: The Economic and Employment Consequences of Net Zero Emissions by 2050 in Australia*
- Report #3: Ten Points About the Paris Climate Agreement*
- Report #4: Section 487 of the Environmental Protection and Biodiversity Conservation Act: How activists use red tape to stop development and jobs*
- Report #5: Green tape and environmental activism: An analysis of Labor's climate legislation*

The government’s climate legislation will invite a torrent of legal activism by fringe environmental groups

The *Climate Change Bill 2022 Bill* risks unleashing a torrent of green lawfare by expanding even further the scope for activist groups to engage in courtroom advocacy.

Presently, Ministerial decisions on major projects can be challenged by way of Judicial Review in the courts. The ordinary common law rule of ‘standing’ is that a person can only launch a legal action if they possess a direct or material interest in a dispute. The *Administrative Decisions (Judicial Review) Act 1975* (the ADJR Act) outlines a person who can undertake a judicial review action is a ‘person aggrieved,’ who is a person “*whose interests are adversely affected by a decision.*”

However, Section 487 of the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) extends the meaning of ‘persons aggrieved’ under the ADJR Act to include organisations or associations who are engaged in activities “*for the protection or conservation of, or research into, the environment.*”

The stated aim of green groups is to use this legal privilege to conduct anti-development political campaigns. These tactics have been very effective at frustrating development projects. Research and analysis from the Institute of Public Affairs has found that in the period from 2000 to 2020, projects with a combined economic value of at least \$65 billion have been targeted for disruption and cancellation by way of third party activist litigation.

If the *Climate Change Bill* passes the parliament, then the legislative landscape in which the *EPBC Act* operates will further shift in the favour of activist groups. The *Climate Change Bill* is a major interpretative document that may significantly affect how approvals under the *EPBC Act* are considered by the courts.

Section 5 of the *ADJR Act* allows a person to challenge a Ministerial decision as an improper exercise of power if the minister fails “*to take a relevant consideration into account in the exercise of a power.*” A legislated net zero target paves the way for activist groups to argue in court that a minister has failed to consider whether or not a project is consistent with the terms of the Paris Climate Agreement. This is because Section 10(2) says the emissions targets are “*to be interpreted in a manner with the Paris [Climate] Agreement.*”

This means that, for example, Judges would be in the position of considering whether a Minister has adequately considered whether a project upholds the principles embedded in the Paris Climate Agreement, including vague notions of “*climate integrity*”, “*international equity*”, and “*Mother Earth.*”

Net zero litigation based on the Paris Climate Agreement is already happening overseas, and these cases reveal how the scales have already been tipped in favour of environmental claimants:

- A UK High Court decision handed down in July 2022 found the British government failed to meet its statutory obligations for failing to explain how its policies would achieve emissions targets.

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- A German court ruled that “*more urgent and shorter term*” measures were required to meet the nation’s Paris Climate Agreement targets. It said young people’s “*fundamental rights to a human future*” were threatened by the “*inadequate*” legislation.
- In New Zealand, the government was pressured out of building a road after an environmental group claimed in court the government did not properly consider the greenhouse gas emissions of the project which undermined the government’s commitment under the Paris Climate Agreement and relevant climate legislation.

The government’s climate legislation will impose significant and irreparable economic damage and cause significant job losses, with regional Australians hardest hit

In April 2022, the IPA released a landmark research report which estimated the potential economic and employment impact on Australians resulting from the policy of net zero emissions by 2050.

That research identified that in order for Australia to have its emissions reduced to net zero:

- At a minimum, all coal, gas, and oil projects in the construction pipeline must be cancelled to achieve net zero by 2050.
- \$274 billion cost to the Australian economy in forgone direct and indirect economic output, which is the equivalent to 13.5% of Australia’s annual GDP.
- Over 478,000 new jobs cancelled.

The research also identified that regional Australians will incur the greatest costs of net zero:

- **North Queensland (from MacKay to Cairns):** \$66.58 billion in foregone economic output which is the equivalent to 87.74% of annual gross regional product. This will prevent the creation of approximately 125,000 jobs, which is the equivalent to around 35.9% of the current local workforce. This is the equivalent to 25 years’ worth of job creation.
- **South-West Queensland (Darling Downs-Maranoa region):** \$33.65 billion in foregone economic output which is the equivalent to 162% of annual gross regional product. This will prevent the creation of approximately 60,154 jobs which is equivalent to around 44.5% of the current local workforce. This is the equivalent to over 50 years’ worth of job creation
- **Hunter Valley:** \$11.5 billion in foregone economic output which is the equivalent to 20% of annual gross regional product. This will prevent the creation of approximately 21,800 jobs which is the equivalent to around 6.7% of the current local workforce. This is the equivalent to 4 years’ worth of job creation.

The government's climate legislation will put even further upward pressure on rapidly rising electricity prices

Research by the Institute of Public Affairs has estimated the potential impact on electricity bills from the policy of net zero emissions by 2050.

The research identified that under net zero, at a minimum, a further six coal-fired power stations would be decommissioned by the year 2030. These stations currently generate approximately 20% of electricity on the National Energy Market.

The report estimates that the closure of these coal-fired power stations could, by the year 2030:

- More than quadruple annual wholesale electricity prices.
- More than double annual retail electricity bills.
- Increase the typical Australian family's annual electricity bill to \$3250 (\$810 per quarter), an increase of \$1650 from today.

The report also identifies the impact that net zero driven policies will have on the household budget around the nation:

- Tasmanian families face the prospect of a 125% increase in retail electricity bills, rising from \$2,000 to around \$4,500 p.a.
- Queensland families face the prospect of a 110% increase in retail electricity bills, rising from \$1,200 to around \$2,500 p.a.
- NSW families face the prospect of a 100% increase in retail electricity bills, rising from \$1,300 to around \$2,600 p.a.
- Victorian families face the prospect of a 95% increase in retail electricity bills, rising from \$1,300 to around \$2,500 p.a.
- South Australian families face the prospect of a 90% increase in retail electricity bills, rising from \$1,700 to around \$3,200 p.a.

The government's climate bill contains a 'ratchet clause' which risks ceding parliamentary authority to international organisations through further embedding the Paris Climate Agreement

The government's climate legislation contains within it a 'ratchet clause' which allows the government to even further increase emissions targets, but without requirement the consent of parliament. Whereas a future government which sought to reduce or repeal the emissions targets would be required to introduce legislation into parliament.

This means that the government could, via a declaration, decree that the emissions reduction mandates be increased from 43% by 2030, to the target preferred by the Greens of 75%. This could be done without debate, without a vote, and even without parliament sitting.

The ratchet clause can be found in Sections 10(4), (5), and (6) of the climate legislation in which describes the executive power of the government with respect to the net zero targets.

- Section 10 (4) establishes that the legislation does not prevent the government from 'preparing and communicating a new national determined contribution in accordance with Article 4 of the Paris [Climate] Agreement.'
- Section 10 (5) establishes that any change to Australia's nationally determined contributions must 'represent a progression beyond' Australia's current target (i.e., a future nationally determined contribution must be higher than 43% by 2030 and net zero by 2050.
- Section 10(6) establishes that if Australia's nationally determined contributed is adjusted, then that adjustment must 'represent an enhancement of Australia's level of ambition.'

The ratchet clause reflects the Paris climate agreement's requirement that emissions reduction mandates can only be increased, and not decreased, even if such actions go against the wishes of national Parliaments.

The Explanatory Memorandum to the bill outlines that the purpose of the ratchet clause is to 'mirror the Paris Agreement principle against 'backsliding – that is, the weakening rather than strengthening of ambition over time'. And that any change to emissions mandates 'must also represent a more ambitious target than the nationally determined contribution immediately preceding.'

The consequence is to risk giving preference to the values and policy preferences of unelected internationalist bureaucrats over that of the Australian community.

The government’s climate legislation contains measures which are not supported by the majority of Australians

Surveys of the Australian community undertaken by the Institute of Public Affairs have confirmed that mainstream Australians do not support the policy of net zero emissions by 2050, nor do they support the impact that such a policy will have, for example through the decommissioning of coal-fired power stations.

For example, surveys of the Australian community have established:

- 61% agree with the statement: “Australia should pause its commitment to the policy of net zero emissions by 2050, as the UK has done, until we have enough energy supplies to avoid blackouts.”
- 55% of agree with the statement: “Australia should build new coal-fired power stations to ensure families have reliable and affordable electricity all year round.”
- 72% stated that they believe the focus of Australia’s energy policy should be on affordability or reliability, rather than reducing emissions to net zero by 2050.

A further survey undertaken by the IPA established that the vast majority of Australians are at best willing to personally pay a very small amount of money for Australia to reduce its emissions to net zero by 2050. The survey asked: *How much would you personally be willing to pay each year for Australia to reduce its emission to zero by 2050?*:

- Nothing: 42%
- \$50 per year: 30%
- \$100 per year: 20%
- \$500 per year: 5%
- More than \$500 per year: 3%

This means that 92% of Australians are willing to pay only a maximum of \$100 per year for Australia to reduce its emissions to net zero by 2050.

These findings were confirmed by a survey published on 3 May by Resolve Strategic and reported in *The Sydney Morning Herald* and *The Age* which identified some 39% of voters are not willing to pay any personal cost to support action to reduce Australia’s emissions. A further 41% indicated they were only “prepared to accept a small personal cost” and only 9% indicated they were “prepared to accept a significant personal cost”.