

## Submission to Senate Cee enquiry into the Bill for an Act to amend the Climate Change Act 2022

Senators,

I am an Emeritus Professor of Law at Monash University. I am a legal ethicist and have played a role in establishing the Climate Justice Clinic at Monash Law School.

I fully support the proposed Bill, but I think you can and should go further.

There can be no rational contest with the assertion that all statutory decision makers should promote intergenerational equity by requiring the health and wellbeing of current and future children in Australia to be considered when they make administrative decisions that are likely to contribute to climate change.

Clearly, there is no future for any of us, our businesses, our children and all their children if this Bill is rejected, because the beginning of the meltdown is now and will increasingly be taking us all down with it. Unlike many other calamities, global 'boiling' will impact rich and poor alike, not just the poor.

I respectfully make these further specific suggestions.

1. It is increasingly plain that just as our climate is heating, at the same time the species and ecosystems upon which humanity depends are shrinking and degrading. In addition to the focus of these proposed intergenerational amendments on climate change, there is an emerging case for additional amendments which would extend the Bill's provisions to include responsibilities to make decisions that avoid general ecosystem unravelling, not just those decisions which may directly increase global temperatures. Even if you determine that such an extension is inappropriate in this Bill, please address this issue in an appropriate, near-future amending Bill.
2. All new fossil fuel extraction proposals require specialist consultants' input, and in particular, they require high level legal representation in relation to financing, application approvals, contracts and compliance reporting. These legal services are indispensable to emissions' intensive applicants seeking development approvals; and the typically large law firms who are invested in this sector derive significant ongoing revenue from the pipelines of projects that fossil fuel corporations would like to pursue. In short, there is a group of lawyer consultants' in large law firms who have a vested interest in continuing global boiling.

Accordingly, while there is a case for a general re-examination of professional ethics across several disciplines in the context of this crisis, this ethical issue is most acute in the case of lawyers. Lawyers are in a *peak* professional position because their 'rulings' in effect govern all other disciplines. There is now an existential case for amending the *Legal Profession Uniform Law* and the *Australian Solicitors' Conduct Rules (ASCR)* made

thereunder, to require that legal practitioners behave not just with honesty and integrity, but also in such a way that they do not imperil our planetary environment and species' survival. An additional clause 5.1.3 (below, in red) could be inserted into the *ASCR* Rule 5 as follows:

5.1 A solicitor must not engage in conduct, in the course of practice or otherwise, which demonstrates that the solicitor is not a fit and proper person to practise law, or which is likely to a material degree to:

5.1.1 be prejudicial to, or diminish the public confidence in, the administration of justice; or

5.1.2 bring the profession into disrepute, or

5.1.3 add to net global greenhouse emissions.

I request that the Committee strengthen the overarching aims of the Bill by recommending to the Commonwealth Attorney General that he encourage the national Legal Services Council to commence a consultative process to insert such a clause or similar in the *Uniform Law* and *ASCR*, as necessary. Such an initiative is justified by the scale of the emerging collapse, and by the reality that future generations will bear the full consequences.

Thank you for considering these suggestions.

Adrian Evans OAM  
Monash Law School  
4 September 2023