

Clean Economy Jobs Bill 2024

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, the Honourable Mick de Brenni MP, Minister for Energy and Clean Economy Jobs make this statement of compatibility with respect to the Clean Economy Jobs Bill 2024 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill seeks to demonstrate commitment to reduction of greenhouse gas emissions in Queensland.

The Bill proposes the creation of a new Act called the *Clean Economy Jobs Act 2024* which will:

- legislate Queensland's greenhouse gas emissions reduction targets of:
 - 30 per cent below 2005 levels by 2030;
 - 75 per cent below 2005 levels by 2035;
 - net zero emissions by 2050.
- provide a framework for setting interim emissions reduction targets for 2040 and 2045;
- require the development of emissions reduction plans for key sectors;
- establish an expert panel to provide advice on progress towards the emissions reduction targets and cost-effective ways to reduce emissions that best supports jobs and growth;
- require an annual statement to Parliament on progress towards the targets.

The Bill will provide certainty of the Queensland Government's ambition for action on climate change, which will support jobs in existing industries while supporting investment and growth in new industries.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

I have considered each of the rights protected by Part 2 of the *Human Rights Act 2019* (the HR Act). In my opinion, the human rights under the HR Act that are relevant to this Bill are:

- Recognition and equality before the law (section 15)
- Right to life (section 16)
- Freedom of movement (section 19)
- Freedom of expression (section 21)
- Taking part in public life (section 23)
- Property rights (section 24)
- Privacy and reputation (section 25)

- Protection of families and children (section 26)
- Cultural rights – generally (section 27)
- Cultural rights—Aboriginal peoples and Torres Strait Islander peoples (section 28).

In my opinion, the majority of these human rights are protected and promoted, while others are limited, but in a way that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality, and freedom.

The proposed legislation is a formalisation of existing targets and will not enforce specific actions on any individual, or sector of the Queensland economy; rather, it will signal the State’s commitment to statewide emissions reduction targets, establish a framework for the setting of future targets and introduce reporting requirements.

Human rights promoted by the Bill

Clause 5 of the Bill enshrines emissions reduction targets of 30 per cent below 2005 levels by 2030, 75 per cent below 2005 levels by 2035, and net zero emissions by 2050. These targets are consistent with the aim of the Paris Agreement to limit global temperature increase to well below 2°C above pre-industrial levels, while pursuing efforts to limit the increase to 1.5°C.

Since 2017, the Queensland Government has had a commitment to achieve a 30 per cent reduction in emissions below 2005 levels by 2030. The latest data indicates that Queensland will surpass that target. However, given the longstanding nature of this commitment, a more ambitious target for 2030 may create uncertainty for the community. That is why the Bill reaffirms the longstanding commitment to a 30 per cent reduction on 2005 levels by 2030, with more ambitious targets beyond 2030.

A reduction in greenhouse gas emissions of 75 per cent on 2005 levels by 2035 and net zero by 2050 is consistent with the Paris Agreement, according to recent independent reports.¹ Of course, the emissions reduction targets in clause 5 of the Bill represent a minimum level of ambition, and the Government can and will strive to exceed those targets.

Other provisions in the Bill will help to achieve those targets, including the requirement to set interim targets for 2040 and 2045 under clause 6, the requirement for the Minister to provide an annual statement about the progress made towards achieving the emissions reduction targets under clause 8, and the establishment of a Clean Economy Expert Panel to provide advice about the progress towards achieving the emissions reduction targets under Part 4.

By legislating Queensland’s emission reduction targets and putting in place mechanisms to help achieve these targets, the Bill will support the continued reduction of greenhouse gas emissions in Queensland, helping to address the State’s contribution to the impacts of climate change.

According to the United Nations Human Rights Committee, climate change presents one of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life and other human rights.² As the Queensland Land Court has recognised, greenhouse gas emissions are exacerbating climate change and those impacts on climate change limit

¹ *Climateworks Centre decarbonisation scenarios 2023: Paris Agreement alignment for Australia* (November 2023) 7; Malte Meinshausen, *Climate Resource: Updated assessment of Australia’s emission reduction targets and 1.5°C pathways* (June 2023) 4

² Human Rights Committee, *General Comment No 36 – Article 6: right to life*, 124th sess (3 September 2019) [62]

several human rights under the HR Act, including the right to life, property and privacy, the rights of First Nations People, the rights of children, and the right to enjoy rights without discrimination.³ Populations living in areas with high climate risks—for example, riverine and coastal locations vulnerable to flooding, or bushland areas vulnerable to bushfire damage—have been some of the first impacted by climate change, including Aboriginal peoples and Torres Strait Islander peoples living in far North Queensland and islands off the coast of Queensland. By setting emissions reduction targets to do Queensland’s part to reduce emissions and avoid the worst impacts of climate change, the Bill helps to protect and promote these human rights.

The human rights under the HR Act relevant to the impacts of worsening climate change include:

Section 15 – Recognition and equality before the law

The burden of climate change will not be experienced equally, with many impacts disproportionately experienced by vulnerable communities, Aboriginal peoples and Torres Strait Islander peoples, and future generations.

Section 16 – Right to life

Climate change has been identified by the United Nations Human Rights Committee as one of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. Climate change can affect human lives directly through extreme weather events and chronic risks such as heat stress, food and water insecurity, psychological and mental distress, and increasing exposure and susceptibility to infectious diseases; and indirectly through associated economic instability, forced migration and as a driver of interpersonal conflict.

Section 19 – Freedom of movement

As impacts of climate change worsen, incidents of extreme weather events such as heatwaves flooding, cyclones, bushfires, and sea-level rise will become more prevalent, which may result in parts of Queensland becoming uninhabitable and/or uninsurable. This may impact the freedom to choose where to live.

Climate change also poses an increased risk of the spread of disease, leading to epidemics or pandemics. The transmission of pathogens can be exacerbated by changes in environmental conditions that increase the dispersal of disease vectors (such as mosquitoes, rodents, and ticks), and extreme weather events, which can contaminate drinking-water sources and trigger the displacement of humans and animals. As seen through the COVID-19 pandemic, this has the potential to result in the closure of state borders and the restriction of freedom of movement.

³ *Waratah Coal Pty Ltd v Youth Verdict Ltd* [No 6] [2022] QLC 21

Section 24 – Property rights

The effects of climate change include increasing weather severity and the potential for areas of Queensland becoming unliveable or uninsurable. Impact from extreme events exacerbated by climate change has already caused extensive property damage in Queensland and will continue to impact Queensland properties into the future.

The potential for climate change to make parts of Queensland unliveable or uninsurable may impact on the right to a person's home as properties are impacted by extreme weather events. Climate change is already presenting a real and serious risk to the homes of residents of the Torres Strait, where people have needed to be relocated due to sea-level rise. As the impacts of climate change increase, more areas across Queensland will be affected and may require people to relocate.

Section 26 - Protection of families and children

The 2023 Intergenerational Report released by the Australian Government names climate change and the net zero transformation as one of the top five major forces to affect the economy over the next 40 years.

Climate change is likely to create intergenerational inequality. Children today and in the future will bear the brunt of the impacts of climate change, whilst contributing the least to cumulative emissions. Current generations are making decisions that will lock in climate trajectories, the impacts of which will be disproportionately felt by future children. Present and future children will be at a disproportionately greater risk of poorer health outcomes and premature mortality from the impact of climate change.⁴

Sections 27 and 28 - Cultural rights generally and cultural rights of Aboriginal peoples and Torres Strait Islander peoples

First Nations people's deep connection and responsibility to land, sea and sky country is integral to their identity and culture. Climate change has the potential to displace First Nations people from their country, risking the survival of cultural practices, and is already having a negative environmental impact on Country. Climate change has the potential to have a profound impact on cultural rights.

By helping to avoid these impacts on human rights, the Bill protects and promotes these human rights.

In addition, when recommending an interim target, clause 6 requires the Minister to consider the views of Aboriginal peoples, Torres Strait Islander peoples and other community stakeholders. This serves to protect and promote the right to take part in public life in section 23(1) of the HR Act, as well as the cultural rights of First Nations peoples in sections 27 and 28 of the HR Act.

Further, the requirement to publish annual statements under clause 8 and sector plans under clause 12 promotes the freedom of expression in section 21 of the HR Act, which includes the right to seek, receive and impart information.

⁴ *Waratah Coal Pty Ltd v Youth Verdict Ltd* [No 6] [2022] QLC 21

Human rights potentially limited by the Bill

Section 23 – Taking part in public life

This right protects the equal opportunity of all people to be appointed to public office or the public sector. The right of equal access to the public service and to public office exists to prevent privileged groups from monopolising public service, in the sense of monopolising the composition of the public service.⁵

Clause 16 of the Bill sets out the membership requirements for the Clean Economy Expert Panel which will provide advice to the Minister. Clause 16 provides that to be appointed a panel member, a person is to have qualifications or experience in relation to at least one of the listed matters. This clause has the potential to limit the right to take part in public life, given people who do not meet those eligibility criteria will be excluded from a position on the panel.

Sections 24 and 25 – Rights to property and privacy

The right to property (section 24) may protect a person's profession in some circumstances and the right to privacy (section 25) protects a person's sphere of autonomy to lead their own lives, possibly including their professional lives. Clause 16 of the Bill may limit these rights. Arguably the rights to property and privacy are not engaged by this clause because no one would have a legitimate expectation that they would be appointed to the panel. However, this statement of compatibility will proceed on the basis that the eligibility criteria in clause 16 of the Bill may interfere with the rights to property and privacy.

The right to property will only be limited if property is arbitrarily deprived. The right to privacy will only be limited where the interference with privacy is unlawful or arbitrary. In a human rights context, arbitrary refers to conduct that is capricious, unpredictable or unjust, and also refers to interferences which are unreasonable in the sense of not being proportionate to a legitimate aim sought. If an interference is proportionate under section 13 of the HR Act, it will not be arbitrary. Accordingly, whether the interference with property or privacy is arbitrary will be addressed below when considering the factors in section 13.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)

Any limit on the right to take part in public life and the rights to property and privacy are considered reasonable and justified under section 13 of the HR Act as follows:

(a) the nature of the right

The right to take part in public life and the rights to privacy and property are engaged by clause 16 of the Bill insofar as it provides eligibility criteria for panel members. This restricts the equal opportunity of all people to be appointed to public office in one of the new positions on the expert panel.

⁵ *Austin BMI Pty Ltd v Deputy Premier* [2023] QSC 95, [324]

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the eligibility criteria is to ensure the integrity of the panel and to ensure that the members of the panel have the appropriate knowledge, qualifications, experience or skills to provide credible advice to the Minister.

Achieving this purpose is consistent with a free and democratic society based on human dignity, equality and freedom. In order to best represent the interests of Queenslanders, panel members should be qualified to advise on achieving the emissions reduction targets and ways to reduce emissions in Queensland.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The eligibility criteria help to achieve the purpose as outlined above. Having appropriately qualified panel members is the best way to ensure that the advice prepared for the Minister is of high quality.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

These provisions are the least restrictive way of ensuring integrity and that members of the panel are people with appropriate knowledge, skills, experience or qualifications.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The eligibility criteria are consistent with the underlying purpose of the right of access to the public service. The Human Rights Committee has stated: ‘[b]asing access to public service on equal opportunity and general principles of merit, and providing secure tenure, ensure that persons holding public service positions are free from political interference or pressures’⁶. Ultimately, the need for integrity and appropriately qualified people for the role outweighs the impact on the right of access to the public service and to public office.

As the potential interference with property and privacy is proportionate and not arbitrary, those rights are not limited by clause 16 of the Bill. Further, the limit on the right of equal access to public office is proportionate and therefore justified. For these reasons, clause 16 is compatible with human rights.

⁶ Human Rights Committee, *General Comment No 25*, 57th sess (27 August 1996) [23]

Conclusion

In my opinion, the Clean Economy Jobs Bill 2024 is compatible with human rights under the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act, and is likely to promote human rights as a result of addressing Queensland's contribution to climate change.

Mick de Brenni MP
Minister for Energy and Clean Economy Jobs

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