



Stop Climate Chaos Coalition¹

Final recommendations on the Climate Action (Amendment) Bill 2020 pre-legislative scrutiny

16th November 2020

Summary list of recommendations

1. Set a robust, science-based, legally binding target for climate neutrality that represents Ireland's fair share of effort under the Paris Agreement

1.1: Include a definition of a 'fair and safe emissions budget'² to which the Government, when adopting carbon budgets under section 6A, must have regard. This would establish a quantitative ceiling on total emissions between (for example) 2018 and the longer-term target year, which in turn would guide the emission limits set in 5-year carbon budgets. The 'fair and safe emissions budget' should be defined as the aggregate amount of net Irish emissions for the period 2010-2050 (for example), without relying on negative emission technologies, recommended by the Climate Change Advisory Council as being consistent with Ireland contributing appropriately to stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, consistent with Ireland's obligations under article 2. of the Paris Agreement³.

¹ Stop Climate Chaos (SCC) is a coalition of civil society organisations campaigning to ensure Ireland plays its part in preventing runaway climate change. It was launched in 2007 and is the largest network of organisations campaigning for action on climate change in Ireland. Its membership includes development, environmental, youth and faith-based organisations. Its members are: Afri, An Taisce, BirdWatch Ireland, Christian Aid Ireland, Comhlámh, Community Work Ireland, Clare PPN, Concern Worldwide, Cultivate, Cyclist.ie, Dublin Friends of the Earth, Eco Congregation Ireland, ECO UNESCO, Feasta, Fossil Free TCD, Friends of the Earth, Friends of the Irish Environment, Goal, Good Energies Alliance Ireland, Irish Climate and Health Alliance, Irish Heart Foundation, Jesuit Centre for Faith and Justice, Just Forests, Kimmage Development Studies Centre, Latin America Solidarity Centre (LASC), Liberia Solidarity Group, Methodist Church of Ireland – Council of Social Responsibility, Mountmellick Environmental Group, National Youth Council of Ireland, Oxfam Ireland, Peoples' Climate Ireland, Presentation Ireland, Self Help Africa, Tearfund Ireland, Trócaire, VITA, VOICE, and Young Friends of the Earth.

² See Climate Change (Scotland) Act 2009 sec.4.(4)(a) and 4.(6).

³ Article 2 of the Agreement reads as follows:

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

1.2: Task the Climate Change Advisory Council under section 11.(1) with a duty to review the adequacy of the climate objective at regular or 5 yearly intervals in response to climate science and Ireland's commitments under the Paris Agreement as represented by the reports of the IPCC. The Minister should be required to respond and adjust the target as in the UK 2008 Act by way of statutory instrument. One expert witness recommended that the Bill include a mechanism for modifying the net-zero date upon the advice of the Climate Change Advisory Council with reference to the need for '*progression*' and Ireland's '*highest possible ambition*', as per article 4.(3) of the Paris Agreement⁴.

1.3: Bring forward the date for the climate neutrality objective based on scientific advice. However, the scientific basis for this political decision would first need to be confirmed by the Climate Change Advisory Council and/or the EPA so a formula in the Bill for a ratchet mechanism is still needed (see 2 above).

1.4: The Minister should be required to report annually to the Joint Committee under section 14 on the question of the adequacy of the current long term and interim targets, after receiving the Advisory Council's findings and recommendations.

1.5. Reintroduce the term 'environmentally sustainable' from the 2015 Act in section 3.(1) so it reads the State shall pursue and achieve the transition to an environmentally sustainable and climate neutral economy by the end of the year 2050 at the latest (in this Act referred to as the 'national 2050 climate objective').

2. Set interim targets to monitor progress and act as milestones

2.1 Amend section 3 of the Bill to include interim quantitative targets for 2030, 2035 and 2040 that are consistent with the trajectory to climate neutrality and a 'fair and safe' emissions budget for Ireland (see above).

2.2 This will require further amendments (to sections 6A, 6B, 6C, 6D, 14, 14A and 15) to ensure that all plans and policies, and activities undertaken by government departments, local authorities and public bodies are consistent with such targets.

(a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

⁴ Art. 4.(3): Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

3. Create a legally-binding obligation on the Minister and the Government to achieve the target and adhere to carbon budgets

3.1 Introduce a requirement in 3.(1) that the Minister(s) shall ensure that the net accounting emissions do not exceed the emissions/ carbon budget for the relevant emissions budget period.

4. Strengthen the governance framework connecting the climate plans and carbon budgets

4.1 Sections 4.(2) and 4.(3) should be amended to include a requirement that future carbon budgets and the actions being taken now to meet them section are to be considered by the Minister when drawing up climate action plans and national long term strategies.

4.2 Section 11.(1) should be amended to include a requirement that projections provided by the Council must make clear by how much the Government's current plans and policies are expected to satisfy (or miss) forthcoming carbon budgets. As drafted, the Bill does not even require climate action plans and strategies to include their projected impact on future emissions.

4.3 Section 12 should be amended to require the Minister to respond to the Advisory Council's annual report, and a report of the joint committee.

4.4 Delete references to 'in the Minister's opinion' in 4.(3) and anywhere else if it weakens the duty of the Minister to take early and effective action in respect of the national climate objective

4.5 Delete 'as he or she considers appropriate' in 4.(4) and 4.(6)

4.6 Replace 'sectoral decarbonisation target ranges' in in Section 4(2)(b)(i); section 6.B(13); and 6.C(7) with 'sectoral allocations of the overall carbon budget' for any five-year period, specifying that sectoral allocations must sum to no more than a period's total budget.

5. Establish a corrective mechanism where targets are missed

5.1 Create a duty on the Minister to report on the progress to meet carbon budgets and (sectoral) decarbonisation target ranges, including progress towards meeting the long-term strategy and any interim targets, and to specify clearly in s.14.(3)(c) that he or she must set out corrective measures to get back on track towards meeting them.

5.2 Section 11 of the Bill pertaining to the functions of the Climate Change Advisory Council should include a provision that requires the Minister and the Government to respond to the Council's annual report, and a requirement that such a report include corrective measures.

5.3 We recommend that provision be made in the Bill for compliance costs should they arise to be allocated to the relevant Department's vote.

5.4 Section 6.D(5) should be amended to require that carbon budget deficits (emissions in excess of a five-year budget limit) must automatically carry forward (without Ministerial or Government discretion) and trigger an obligation to carry out an immediate review of the adequacy of the rolling Climate Action Plan.

6. Strengthening language and definitions

6.1 The definition of a carbon budget should be amended so that '*Carbon budget*' means the total amount of permissible greenhouse gas emissions which can be emitted during a 5-year period and calculated on an economy-wide basis.

6.2 Delete s.3.(3)(y)

6.3 Introduce a new definition of 'offshore mitigation' in the definitions section along the following lines: 'offshore mitigation' means emissions reductions and removals, or allowances from emissions trading schemes –

(a) that originate from outside the State,

(b) that are expressed as a quantity of carbon dioxide equivalent,

(c) that are robustly accounted for to ensure that, among other things, double counting is avoided, and that either –

(e) represent an actual additional, measurable, and verifiable reductions or removal of an amount of carbon dioxide equivalent, or

(f) are a verified, traceable emissions trading scheme allowance that triggers the reductions of carbon dioxide equivalent;

(g) adhere to human rights principles, especially the principle of free and prior informed consent.

6.4 Include a definition of non-territorial emissions in the definitions section

6.5 Require the CCAC to track and report non-territorial emissions arising from the State on a periodic basis in section 11.

6.6 Require the CCAC to track and report emissions from aviation and shipping and advise the Minister on how these might be incorporated into the first carbon budget under section 11.

6.7 Split the list of matters to which Ministers and the Government must currently '*have regard*' in adopting plans, strategies, frameworks, and carbon budgets, with the stronger requirement '*must be consistent with*' applying to certain matters, especially the activities of public bodies, local authority mitigation plans, carbon budgets and climate action plans.

7. Climate Change Advisory Council membership and voting rights

7.1 Delete references to Teagasc and Met Éireann in section 7.(1)(a)-(c) in membership of Council

7.2 Include a provision that nominees/ representatives of State bodies shall not have voting rights on the Council

8. Sustained policy commitment in line with science

8.1 Amend 6A.(4) to require the Council to prepare and submit a proposed carbon budget programme that is consistent with the national climate objective to the Minister as soon as may be after the commencement of this section.

8.2 Amend section 6A(6) to ensure that only the most recent scientific advice can be used to justify changes to the carbon budget programme. For example: for the purpose of performing its functions under subsections (4) and (5), the Advisory Council shall have regard to -

(a) relevant scientific advice, including the reports of the Intergovernmental Panel on Climate Change, and

(b) UNFCCC guidance and standards on the reporting of greenhouse gas emissions and removal.

A more detailed list of criteria could include some or all of the following: The Government may vary or revise a plan approved by them under this section only if –

(a) significant change has occurred, or is likely to occur, since the commencement of the Climate Act 2020, to one or more of the following, as they relate to climate change:

(i) global action,

(ii) scientific understanding of climate change,

(iii) the State's obligations under relevant international agreements,

(iv) technological developments,

(v) distributional impacts and the risk of fuel poverty,

(vi) equity implications (including intergenerational equity),

(vii) the principal risks and uncertainties associated with emissions reductions and removals, or

(viii) social, cultural, environmental and ecological circumstances, including risks to biodiversity, and

(b) the Council is satisfied that the change justifies the variation or revision to a carbon budget programme or climate neutrality objective.

9. Rationalise the 'have regard to's' in 3.(3)

9.1 **Delete** the following from 3.(3):

- (b): this is a tautology (it requires the government to have regard to itself)
- (e): duplication with (i) re economic case for early action
- (l): duplication with (i)
- (n): covered by (m)
- (y): this is a misleading reference to the IPCC SR15 which is not about biogenic methane but makes a clear reference to the need for urgent and steep reductions in short-lived greenhouse gases.

9.2 **Include** in section 3.(3)(c) a more comprehensive definition of climate justice, with specific reference to the equitable distribution of climate mitigation duties based on differentiated responsibilities and respective capabilities. Ensure this is a criterion under s.3.(3) to which the Minister, the Government and the Council must have regard when devising budgets, plans and sectoral decarbonisation target ranges. At a minimum, this should include:

- a. Distributional impacts and the risk of fuel poverty
- b. Equity implications (including intergenerational equity)
- c. The principal risks and uncertainties associated with emissions reductions and removals
- d. Social, cultural, environmental and ecological circumstances, including risks to biodiversity
- e. The need for a just transition for the workers and communities most impacted by the move to a climate neutral economy
- f. The fair share effort required internationally under the Paris Agreement

10. Just Transition

10.1 Ensure that the membership of the CCAC taken as a whole includes expertise in the social impact of climate policy under s.9.(4)

10.2 Ensure that the need for a just transition for the workers and communities most impacted by the move to a climate neutral economy is a criterion under s.3.(3) to which the Minister, the Government and the Council must have regard when devising budgets, plans and sectoral decarbonisation target ranges.

10.3 Include in the Act a set of Just Transition principles (see Climate Change (Emission Reduction targets) (Scotland) Act 2019 section 35C as an example) to guide the implementation of climate policies.

10.4 Amend the requirement for the Minister and Government to have regard to 'the need to promote of sustainable development' in section 3(3)(k). Promote is not an appropriate direction given Ireland's international obligations under the Sustainable Development Goals.

11. Duties of public bodies to perform functions in a manner consistent with national climate policy and carbon budgets

11.1 Amend s.15 so that public bodies should be required not merely to have regard to 2050 and carbon budgets, but to perform their functions in a manner consistent with such targets and associated carbon budgets.

11.2 Add an additional duty on public bodies under s.15 to require them to exercise their functions compatibly with a goal of protecting, conserving and enhancing biodiversity, by utilising nature-based solutions that enhance biodiversity in any or all mitigation and adaptation activities.

11.3 Ensure that the Oireachtas standing committee on climate change is tasked with holding not only Government Departments, but also public bodies, to account for their operations and response to targets under s.14.

11.4 Introduce transparent reporting requirements on public bodies in line with relevant Scottish legislation, including a remit for the Minister to assess and issue directions regarding such reports, and that public bodies must comply with such Ministerial directions. These reports should also demonstrate how governance and management arrangements deliver on climate responsibilities.

11.5 Provide a legislative basis for the planned Climate Action Mandate for all public bodies and introduce a requirement for such bodies to carry out climate stress tests and climate-related financial disclosures.

11.6 Ensure climate action plans are produced not only by local authorities (as currently proposed in the Bill) but all public bodies.

12. Make provision for public engagement

12.1 Create a new provision section 16 requiring the Minister to establish a body or task force to prepare, publish and implement a permanent, large scale public engagement strategy setting out the steps to (a) inform persons in Ireland about the targets specified by virtue of this Act; (b) encourage them to contribute to the achievement of those targets. The public engagement strategy must, in particular, identify actions which persons in Ireland may take to contribute to the achievement of the climate neutrality objective set out in section 3.(3)(1). The public engagement strategy should be published no later than 31 December 2021.

13. Safeguard biodiversity and avail of nature-based solutions to Climate Action

13.1 Appropriate definitions of biodiversity should be included in the Bill. Amend Section 1 of the Principal Act to include the following definition of biodiversity:

The Convention on Biological Diversity (CBD) defines biodiversity as ‘the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species, and of ecosystems’⁵.

13.2 Appropriate definitions of nature-based solutions should be included in the Bill. Amend Section 1 of the Principal Act to include the following definition of nature-based solutions

‘Nature based solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions’⁶.

13.3 Explicitly recognise the integral role of biodiversity as it relates to climate in the Climate Bill and Principal Act. Recognise explicitly the integral role of biodiversity in regulating the climate and ensuring long-term resilience to climate change in this Bill and that all policy instruments resulting from this Bill and the Principal Act comply with, and actively support, the implementation of the National Biodiversity Action Plan.

13.4 Amend Section 3.1 to include reference to environmentally sustainable economy.

13.5 Ensure that the Climate Bill meets national obligations in the National Biodiversity Action Plan. The first objective of the National Biodiversity Action plan is to ‘Mainstream biodiversity into decision-making across all sectors’. Therefore, the Bill should ensure that all policy instruments resulting from this Bill and the Principal Act should comply with, and actively support, the implementation of the National Biodiversity Action Plan. Amend Section 3(3) to add Section 3(3)(z): Nature-Based solutions for climate action and the National Biodiversity Action Plan.

14. Amendment of National Oil Reserves Agency Act 2007

14.1 Amend section 37B of the National Oil Reserves Agency Act 2007 to include consideration of biodiversity research

⁵ Convention on Biological Diversity, UNEP/CBD/94/1

⁶ https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en

1. Set a robust, science-based, legally binding target for climate neutrality that represents Ireland's fair share of effort under the Paris Agreement

The setting of a long-term climate goal or target is initially at least a political decision, guided by expert scientific advice relating to anthropogenic climate change. The Programme for Government commitment to reduce Irish emissions by 7% per annum each year to 2030 reflects the recommendation of the Joint Oireachtas Committee on Climate Action from January 2020 for enhancing Ireland's ambition in the context of the EU National Energy and Climate Plan⁷, and the recommendation of the Citizens' Assembly from 2017 to put climate change at the centre of all government decision-making⁸.

However expert witnesses before the Committee have advised that 2050 is far too late for the achievement of net zero emissions⁹ and that choice of target year does not reflect the fair share of effort required by developed countries under the Paris Agreement. A number of expert witnesses commented that to achieve Paris-compliance, Ireland would have to reduce emissions by roughly 80% by 2030 (Prof. Kevin Anderson). Dr. James Glynn noted the reliance on as yet speculative and very costly negative emissions technologies to meet the 2050 goal is imprudent and unlikely to be consistent with the temperature goals of the Paris Agreement. Energy modelling conducted by UCC MaREI shows that fossil-fuel Carbon Capture and Storage (CCS) plants without near 100% capture rates of CO₂ become inconsistent with Paris Agreement compliant targets without emissions offsetting elsewhere in the energy system. This means that near term and sustained deep emissions reductions are needed if Ireland and other developed countries are to contribute fairly and equitably to the global mitigation effort.

Furthermore, the cumulative emissions budget to 2050 implied by the definition of climate neutrality in 3.(1) is not consistent with Ireland's fair share of the global carbon budget consistent with 1.5°C or even 2°C global heating scenarios under the Paris Agreement¹⁰.

Recommendations:

1.1: Include a definition of a 'fair and safe emissions budget'¹¹ to which the Government, when adopting carbon budgets under section 6A, must have regard. This would establish a quantitative ceiling on total emissions between (for example) 2018 and the longer-term target year, which in turn would guide the emission limits set in 5-year carbon budgets. The 'fair and safe emissions budget' should be defined as the

⁷ See

https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_climate_action/reports/2020/2020-01-13_report-on-consultation-on-ireland-s-final-integrated-national-energy-climate-plan-2021-2030_en.pdf

⁸ See <https://2016-2018.citizensassembly.ie/en/How-the-State-can-make-Ireland-a-leader-in-tackling-climate-change/>

⁹ See the expert witness testimony to the committee by Prof. John Sweeney, Prof. Kevin Anderson, and Dr. Andrew Jackson.

¹⁰ A recent study published by the EPA (see McMullin et al, 2020) estimate that a prudent Irish 'fair share quota' of the remaining global cumulative GHG budget, within the Paris Agreement goals, is estimated at approximately 540 Mt CO₂-we (carbon dioxide warming equivalent) from 2015. The authors estimate that this budget will be exhausted within 5 years at current emission rates. The next IPCC Assessment Reports (AR6) will be published in 2021-2. These internationally peer-reviewed reports, signed off by governments, will collectively contribute to the UNFCCC global stocktake in 2023 when countries will review progress towards the Paris Agreement goal of keeping global warming to well below 2°C while pursuing efforts to limit it to 1.5°C.

¹¹ See Climate Change (Scotland) Act 2009 sec.4.(4)(a) and 4.(6).

aggregate amount of net Irish emissions for the period 2010-2050 (for example), without relying on negative emission technologies, recommended by the Climate Change Advisory Council as being consistent with Ireland contributing appropriately to stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, consistent with Ireland's obligations under article 2. of the Paris Agreement¹².

1.2: Task the Climate Change Advisory Council under section 11.(1) with a duty to review the adequacy of the climate objective at regular or 5 yearly intervals in response to climate science as represented by the reports of the IPCC. The Minister should be required to respond and adjust the target as in the UK 2008 Act by way of statutory instrument. One expert witness recommended that the Bill include a mechanism for modifying the net-zero date upon the advice of the Climate Change Advisory Council with reference to the need for '*progression*' and Ireland's *highest possible ambition*', as per article 4.(3) of the Paris Agreement¹³.

1.3: Bring forward the date for the climate neutrality objective based on scientific advice. However, the scientific basis for this political decision would first need to be confirmed by the Climate Change Advisory Council and/or the EPA so a formula in the Bill for a ratchet mechanism is still needed (see 2 above).

None of these options are mutually exclusive. The Bill would be improved substantially by bringing the target year forward, providing for a ratcheting mechanism to review and revise this target periodically, and to specify a fair and safe emissions budget for Ireland that is consistent with our obligations under the Paris Agreement.

1.4: The Minister should be required to report annually to the Joint Committee under section 14 on the question of the adequacy of the current long term and interim targets, after receiving the Advisory Council's findings and recommendations.

In addition, in his witness statement Dr. Andrew Jackson noted that the language in the 2015 Act that defines the National Transition Objective under section 3.(1) includes a reference to 'environmentally sustainable' which we agree should be retained. We recommend amending section 3.(1) of the draft Bill as follows:

¹² Article 2 of the Agreement reads as follows:

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

(a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

¹³ Art. 4.(3): Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

1.5. Reintroduce the term ‘environmentally sustainable’ in section 3.(1) so it reads the State shall pursue and achieve the transition to an environmentally sustainable and climate neutral economy by the end of the year 2050 at the latest (in this Act referred to as the ‘national 2050 climate objective’).

2. Set interim targets to monitor progress and act as milestones

The draft Bill as it stands does not include any statutory target for 2030 for which there is only a political commitment by Government to achieving a 51% reduction in emissions. A key objective of the Bill is to ensure a robust statutory basis for the agreed targets to guide future policymaking. Section 3.(3)(b) requires the Minister and the Government to have regard to the policy of the Government on climate change, but there is no requirement for policy to increase in ambition over time. Nor are there any other interim targets proposed for between now and 2050.

The evidence of all the witnesses with expertise in climate law and governance pointed to the absence of interim targets as a critical weakness in the Bill. Mr. Jonathan Church referred to the need to include ‘frequent and focused moments of accountability’ to ‘bake in’ a need to course correct if emissions are not declining as planned. Dr. Thomas Muinzer and Dr. Andrew Jackson both emphasised that carbon budgets should be ideally pegged to interim targets that drive an emissions reduction trajectory consistent with limiting global heating to 1.5°C towards the 2050 target. Prof. John Sweeney noted in his witness statement that interim targets are essential to ensure the roadmap intended is being followed. He noted that such interim targets or milestones currently exist for Ireland’s EU 2020 and 2030 targets, and under the EU Energy Efficiency Directive. The principle of 2030 targets has already been accepted, legally and politically. Such targets are not overly restrictive on Government and still enable choices to be made as to how these targets will be met. Dr. Áine Ryall also remarked that need for clear interim targets ‘is fundamental and vital for ongoing accountability’ to track progress.

In reply to questions from Committee members about the need for interim targets, Mr. Brian Carroll of the Department of Climate Action and the Environment emphasised the fact that the programme for Government contains a commitment to 7% reductions per annum, on average, over the decade and that carbon budgets and sectoral decarbonisation ranges would provide ‘a very tight structure’ of interim milestones. However, the experts also noted that as currently drafted, the loose language in the Bill means there is no clear obligation on the Government to adopt carbon budgets that are consistent with the trajectory of emission reductions that would align Ireland with commitments under the Paris Agreement or the longer-term climate neutrality objective. Therefore, the carbon budgeting mechanism cannot, as currently drafted, be relied upon to produce legally binding interim targets that are consistent with the longer-term target. Setting interim targets is crucial to addressing this.

Recommendation:

2.1 Amend section 3 of the Bill to include interim quantitative targets for 2030, 2035 and 2040 that are consistent with the trajectory to climate neutrality and a ‘fair and safe’ emissions budget for Ireland (see above) in line with Ireland’s obligations under the Paris Agreement.

2.2 This will require further amendments (to sections 6A, 6B, 6C, 6D, 14, 14A and 15) to ensure that all plans and policies, and activities undertaken by government departments, local authorities and public bodies are consistent with such targets.

3. Create a legally-binding obligation on the Minister and the Government to achieve the target and adhere to carbon budgets

The draft Bill does not make the achievement of the 2050 objective an explicit duty of the Minister or Government. In his opening statement to the Committee, Mr. Jonathan Church summarised his opinion that under the Bill, the Government ‘is not required to produce plans adequate for meeting targets, scrutiny mechanisms are not focused on assessing whether progress is adequate, and nothing substantive is required of Government even where it falls short. I cannot see how the Bill as drafted can be expected to drive the emissions reductions needed’. This is damning criticism of the draft Bill.

The Bill must be strengthened by amending it to create a duty of the Minister to adhere to the carbon budgets so that when preparing a plan or framework under sections 4, 5 and 6 for approval, the Minister and the Government are required to perform their functions in a manner consistent with the national climate objective within the period to which the objective relates.

Recommendation:

3.1 Introduce a requirement in 3.(1) that the Minister(s) shall ensure that the net accounting emissions do not exceed the emissions/ carbon budget for the relevant emissions budget period.

4. Strengthen the governance framework connecting the climate plans and carbon budgets

The Bill requires a number of amendments throughout to ensure that the climate action plans, carbon budgets and activities of government and public bodies are consistent with the trajectory of emission reductions that will enable Ireland to meet the 2050 climate objective. The Bill as drafted does not explicitly require this, with the result that it does not copper fasten the emission reductions that are required by the 2050 objective into the various climate plans required to be drawn up.

Mr. Jonathan Church noted that climate action plans are not required in the Bill to be adequate for meeting the carbon budgets. He noted that the Bill requires Minister to set out a roadmap of actions that ‘in the opinion of the Government, should be pursued’ to remain within the carbon budget. However, that plan is then ‘subject to such modifications’ as the Government considers ‘appropriate’ – without any apparent constraint. Dr. Diarmuid Torney remarked in his opening statement that the provisions regarding the setting of carbon budgets are lacking in precision, and that there appears to be ‘no obligation on either the Climate Change Advisory Council to recommend, or Government to approve, carbon budgets that are consistent with the national 2050 climate objective’. He also noted that there is nothing in the Bill to stop

Government from setting carbon budgets that are explicitly inconsistent with the 2050 objective or to stop Government from setting carbon budgets that are explicitly inconsistent with the State's obligations under EU and international law.

Recommendations:

- 4.1 Sections 4.(2) and 4.(3) should be amended to include a requirement that future carbon budgets and the actions being taken now to meet them section are to be considered by the Minister when drawing up climate action plans and national long term strategies.
- 4.2 Section 11.(1) should be amended to include a requirement that projections provided by the Council must make clear by how much the Government's current plans and policies are expected to satisfy (or miss) forthcoming carbon budgets. As drafted, the Bill does not even require climate action plans and strategies to include their projected impact on future emissions.
- 4.3 Section 12 should be amended to require the Minister to respond to the Advisory Council's annual report, and a report of the joint committee.
- 4.4 Delete references to 'in the Minister's opinion' in 4.(3) and anywhere else if it weakens the duty of the Minister to take early and effective action in respect of the national climate objective
- 4.5 Delete 'as he or she considers appropriate' in 4.(4) and 4.(6)
- 4.6 Replace 'sectoral decarbonisation target ranges' in in Section 4(2)(b)(i); section 6B(13); and 6C(7) with 'sectoral allocations of the overall carbon budget' for any five-year period, specifying that sectoral allocations must sum to no more than a period's total budget.

5. Establish a corrective mechanism where targets are missed

As drafted, the Bill contains no provision for remedial action if targets are missed or budgets are exceeded, except for section 6.D(4) and (5), where a very limited facility weighted in favour of a 'banking' provision, is established to allow a surplus / deficit to carry over from one budget to the next. There is no requirement on the Minister to report to the Committee on what actions will be taken to correct course, nor are there any sanctions in the event of a budget or decarbonisation target range being breached. We recognise that transparency and accountability can take a number of different forms, for example:

Transparency can be enhanced by making the target setting, timetabling and reporting process as robust and explicit as possible and by releasing all relevant data and information into the public domain. In principle this can drive oversight by the lead government department, the CCAC, not forgetting the public and civil society. The objective should be to utilise the monitoring process to take corrective action rather than initiate *ex post* legal reviews. At present implementation of the (non-statutory) Climate Action Plan 2019 is monitored by the Climate Action Delivery Board under the Department of the Taoiseach which publishes quarterly reports.

Political accountability: by requiring the Minister and the government to explicitly achieve and not simply pursue the climate objective and to perform their functions in a manner consistent with the 2050 target and the carbon budgets - parliamentary committees, voters and engaged citizens can keep track of the performance of Government. However, political costs associated with inaction or delayed action however can never be guaranteed, as the salience of climate change has historically fluctuated over time. The short-term electoral cycles in politics do not lend themselves well to long-term policy action, hence the need for legally binding long-term targets that extend well beyond electoral cycles, and a binding requirement for forward planning by all key decision-makers and agencies.

Legal accountability whereby citizens, NGOs or even a State body¹⁴ can challenge the government's implementation of the climate law in the courts. This has already occurred under section 4.(2) of the existing 2015 Act whereby Friends of the Irish Environment successfully challenged the legality of the 2017 National Mitigation Plan. However, litigation is costly, slow, and often limited to a narrow range of issues that can be subject to challenge due to the separation of powers doctrine. Nor, apart from the *Urgenda* case, has litigation directly resulted in a court-mandated obligation to increase ambition in opposition to a government's policy preferences. While litigation has an important role to play in providing accountability and engaging the public, it should be regarded as a last resort, and not a substitute for corrective action or for strong targets that drive emissions reductions in the first instance¹⁵.

Parliamentary accountability: A more effective approach in our opinion is a form of parliamentary accountability. We recommend amendments that create a duty on the Minister and the Government to report and to take corrective action in the event of missing targets, as recommended by Prof. John Sweeney, and Mr. Jonathan Church. It is worth noting the reply of Mr. Church to a question at the Committee: remedying 'any deviation in terms of ongoing progress is much easier than waiting for a breach five, ten or 15 years down the track and then wondering how it can be enforced. If the law is drafted to require little and often, but with hard-edged accountability, ...many of the problems about litigation might be lessened'.

Recommendation:

5.1 We recommend that section 14 of the Bill be amended to create a duty on the Minister to report on the progress to meet carbon budgets and (sectoral) decarbonisation target ranges, including progress towards meeting the long-term strategy and any interim targets, and to specify clearly in s.14.(3)(c) that he or she must set out corrective measures to get back on track towards meeting them.

5.2 Section 11 of the Bill pertaining to the functions of the Climate Change Advisory Council should include a provision that requires the Minister and the Government to

¹⁴ The 2017 Citizens' Assembly in fact recommended the establishment of an independent body with the powers to take the government to court over climate inaction. However, this was debated at length by the Joint Oireachtas Committee on Climate Action under the 32nd Dáil and it recommended giving enhanced powers to the Climate Change Advisory Council but without the power to take legal actions.

¹⁵ It should also be noted that Dr. Andrew Jackson advised the committee that further litigation in respect of climate change is likely to take a more constitutional/ rights-based approach in which case amendments designed to avoid justiciability are likely not to succeed in any case.

respond to the Council's annual report, and a requirement that such a report include corrective measures.

5.3 We recommend that provision be made in the Bill so that compliance costs should they arise are allocated to the relevant Department's vote.

5.4 Section 6.D(5) should be amended to require that carbon budget deficits (emissions in excess of a five-year budget limit) must automatically carry forward (without Ministerial or Government discretion) and trigger an obligation to carry out an immediate review of the adequacy of the rolling Climate Action Plan.

6. Strengthening language and definitions

Many of the witnesses before the Committee have emphasised the need to strengthen the language in the Bill to remove ambiguity and undue discretion.

Definition of carbon budget

The definition of a carbon budget in the draft Bill is vague. It defines a carbon budget as meaning '*in relation to one or more greenhouse gases, the total amount of greenhouse gas emissions that are permitted during the budget period*' (emphasis added).

This definition implies that the carbon budget does not have to include all 6 greenhouse gases that Ireland is required to report under the UNFCCC Kyoto Protocol. It is not clear whether the discretion to exclude a gas or gases lies with the Minister or with the Climate Change Advisory Council (CCAC). Nor is there any requirement on either the Minister or the Council to explain or justify the exclusion of any gas or gases. Many of the witnesses noted the ambiguity created by this definition and recommended tightening up the language.

Recommendation:

6.1 The definition of a carbon budget should be amended so that '*Carbon budget*' means the total amount of permissible greenhouse gas emissions which can be emitted during a 5-year period and calculated on an economy-wide basis.

Definition and role of 'biogenic methane'

A number of expert witnesses noted that the reference to 'biogenic methane' in the section 3.(3)(y) of draft Bill is inaccurate and potentially misleading. It gives the impression that methane is somehow less harmful and unfairly grouped with carbon dioxide. This reference should be corrected or removed entirely.

However, there is also a further question about setting a separate target for methane emissions, due to its potency but shorter atmospheric life. Prof. John FitzGerald addressing the committee as chair of the CCAC noted that the Council recommended a split national target for 2050 – net-zero emissions of long-lived gases and a separate target for methane. This advice has not been adopted by the Government. Mr. Church and Dr. Muinzer both acknowledged the similarities between Ireland and New Zealand, which does have a separate

target for methane enshrined in its climate law. Dr. James Glynn emphasised that it does not make sense to include methane in a very long-range carbon budget due to its shorter lifetime in the atmosphere. However, he acknowledged the importance of including methane in shorter term (5-year) carbon budgets. We agree with Dr. Muinzer that the Climate Change Advisory Council's recommendation needs to be thoroughly investigated and analysed by the next Council, which, should the Bill be enacted, should have the scientific expertise and resources post 2021 required to undertake an analysis of the best way to measure methane emissions and their global warming impact alongside other regulated greenhouse gases within the carbon budget programme. The Council should be asked to advise on an appropriate, if any, target for methane in a manner that is consistent with IPCC science and international best practice and how such a target would sit alongside the target for other GHGs inside an economy-wide carbon budget.

Recommendation:

6.2 Delete s.3.(3)(y)

Include definition of offshore mitigation

The Bill does not define offshore mitigation, nor does it set any limit on the State's ability to use offsets or credits to achieve compliance towards targets. The Bill should specify a limit to the reductions sourced from overseas by the Government to meet emissions budgets, and only as a last resort and not as a first choice. The Climate Change Advisory Council should be mandated under section 11.(1)(a) to advise the Minister on the appropriate limit to carbon credits sourced from overseas that can be purchased and include reasons for this limit. This should place primary reliance on reducing emissions at home, while retaining flexibility to manage the uncertainty of making long-term projections.

Recommendation:

6.4 Introduce a new definition of 'offshore mitigation' in the definitions section along the following lines: 'offshore mitigation' means emissions reductions and removals, or allowances from emissions trading schemes –

- (a) that originate from outside the State,
- (b) that are expressed as a quantity of carbon dioxide equivalent,
- (c) that are robustly accounted for to ensure that, among other things, double counting is avoided, and that either –
 - (e) represent an actual additional, measurable, and verifiable reductions or removal of an amount of carbon dioxide equivalent, or
 - (f) are a verified, traceable emissions trading scheme allowance that triggers the reductions of carbon dioxide equivalent;
- (g) adhere to human rights principles, especially the principle of free and prior informed consent.

Include definition of non-territorial emissions

The Bill does not address the issue of non-territorial emissions, or emissions that are generated outside of the State by activities and products that are consumed within the State. Dr. Andrew Jackson and Dr. James Glynn both noted that the UK Climate Change Committee monitors and reports consumption based (non-territorial) emissions and this practice should be followed here by the Climate Change Advisory Council. Prof. Kevin Anderson highlighted the impact of Irish consumption patterns on global emissions: he estimated that using a consumption-based inventory, the emissions of a typical Irish citizen were, in 2018, 'over 50% higher than those of their Chinese counterparts, almost twice the global mean and over eight times that of the average African'.

Recommendation:

6.4 Include a definition of non-territorial emissions in the definitions section

6.5 Require the CCAC to track and report non-territorial emissions arising from the State on a periodic basis in section 11.

Don't exclude/ignore emissions from aviation and shipping

To achieve the temperature goals of the Paris Agreement, special attention must be paid to emissions from aviation and shipping which, as bunker fuels, are not counted under domestic mitigation activities though reporting of these emissions is still required under the UNFCCC. Emissions from these sectors – international transport – are difficult to mitigate due to the absence of technological substitutes. Yet as Prof. Anderson noted in his witness statement, to implement the Paris Agreement requires roughly an 80% cut in Ireland's energy-based CO₂ emissions by 2030, and complete decarbonisation of Ireland's entire energy system (including aviation and shipping) by 2035-2040. In other words, if climate neutrality is the goal, aviation and shipping cannot be excluded from the carbon budgets and climate policy measures. Prof. Anderson recommended that the national climate objective be defined in such a way as to provide a transparent and cogent interpretation and calculation of the Paris Agreement commitments and provide an explicit Paris-compliant carbon budget for Ireland that takes full account of Ireland's international aviation and shipping emissions.

Recommendation:

6.6 Require the CCAC to track and report emissions from aviation and shipping and advise the Minister on how these might be incorporated into the first carbon budget in section 11.

Tighten up vague language

In addition, the Committee should closely scrutinize the references in the Bill to 'may' as opposed to 'shall' which give a great deal of Ministerial discretion, and which may ultimately be used as justifications for policy failures or failure to achieve targets, or even to evade accountability to the Oireachtas or in the courts. Language such as 'have regard to' or 'take account of' do not impose a clear obligation on the duty-holder to do more than consider or

weigh up various criteria, rather than adhere to them. Case law suggests that these terms have very little legal weight. Such terminology should be avoided and replaced with clear unambiguous duties linked to a range of criteria that can be objectively assessed. Dr. Andrew Jackson in his evidence recommended further that the list of criteria that the Minister and Council must have regard to in devising budgets and plans should be split into two separate sections: a list of criteria that the Council must have regard to when drawing up carbon budgets, and separately, a longer list of criteria that must be considered when the Minister is preparing the Climate Action Plan and its updates, along with the long-term strategy.

Recommendation:

6.7 Split the list of matters to which Ministers and the Government must currently *'have regard'* in adopting plans, strategies, frameworks, and carbon budgets, with the stronger requirement *'must be consistent with'* applying to certain matters, especially the activities of public bodies, local authority mitigation plans, carbon budgets and climate action plans.

7. Climate Change Advisory Council membership and voting rights

We recommend that references to Teagasc and Met Éireann in section 7.(1)(a)-(c) are deleted – it is not appropriate that these state bodies should have full membership of the Council and there is a danger that representation by these state bodies will undermine the intended independence of the Council. The Committee should consider whether it is appropriate for the EPA or any state body to have voting rights on the Council.

Recommendation:

- 7.1 Delete references to Teagasc and Met Éireann in section 7.(1)(a)-(c) in membership of Council
- 7.2 Include a provision that nominees/ representatives of State bodies shall not have voting rights on the Council

As detailed above, we also recommend that the Council be tasked with additional functions to monitor and report on non-territorial emissions, aviation and shipping, and to advise on the role of methane in carbon budgets.

8. Sustained policy commitment in line with science

Section 6 of the Act is to be amended to make provision for the adoption of carbon budgets that are proposed in the first instance by the Climate Change Advisory Council. However, as drafted, these are not explicitly required to be consistent with the trajectory of emissions reductions that would align Ireland's mitigation effort with our equitable share of the global effort under the Paris Agreement, or the achievement of the climate neutrality objective. Evidence from Prof. Kevin Anderson suggests that to be Paris-compliant, Ireland needs:

- to maintain its total CO₂ emissions to under 300MtCO₂ (this means up to 2050 and beyond)
- to deliver an annual mitigation rate of over 12% year on year
- to achieve an 80% cut in its CO₂ emissions by 2030 (compared with 2018)
- to reach full decarbonisation of its entire energy system by 2035-40
- to cut total agricultural methane and nitrous oxide emissions by at least 3% year on year

This analysis according to Prof. Anderson makes no allowance for highly speculative 'negative emission technologies' increasing the budget, nor does it reduce the budget for similarly uncertain earth system feedbacks not yet included in the climate models. In essence it offers a conservative reading of the IPCC's analysis.

When informed by the principle of Common But Differentiated Responsibilities and Respective Capabilities, the EU carbon budget works out at c. 21-27 billion tonnes of CO₂ (from 2020 to 2100 and beyond). Prof. Anderson states that very provisional work suggests this translates to an Irish carbon budget range of 230 to 300 million tonnes of CO₂ (i.e. 230-300MtCO₂), which equates to an annual mitigation rate in excess of 12% p.a., starting January 2020.

Dr. James Glynn reported that applying these carbon budgets to the Irish Energy system shows that Irish CO₂ emissions need to decrease by between 4%-9% per year from 2020-2030 to play our equitable part of keeping global temperature increase below 2°C, and to reduce between 11%-21% per year from 2020-2030 to keep global temperatures below 1.5°C without overshooting that temperature ceiling.

The problem is that the Bill does not recognise that the clear scientific direction of travel is for much more stringent emission reduction targets. Instead the provisions for updating the carbon budgets in the draft Bill would make one think that a techno-fix is on the horizon or that if mitigation becomes more costly, ambition can be allowed to backslide.

The Council should also be empowered to recommend a change to the carbon budget programme if it is satisfied that there has been a significant change in a specified factor that justifies a change to the target or budget programme. However, amendments or revisions to the budget must only be considered because of scientific evidence or drastic changes to economic outlook, not sectoral lobbying. These factors are set out in section 6.B (6) (a) and (b) but these subsections do not specify that the relevant scientific advice should be based on the published reports of the IPCC.

Recommendation

8.1 Amend 6A.(4) to require the Council to prepare and submit a proposed carbon budget programme that is consistent with the national climate objective to the Minister as soon as may be after the commencement of this section.

8.2 Amend section 6A(6) to ensure that only the most recent scientific advice can be used to justify changes to the carbon budget programme. For example:

- (6) For the purpose of performing its functions under subsections (4) and (5), the Advisory Council shall have regard to -

- (a) relevant scientific advice, including the reports of the Intergovernmental Panel on Climate Change, and
- (b) UNFCCC guidance and standards on the reporting of greenhouse gas emissions and removal.

A more detailed list of criteria could include some or all of the following:

The Government may vary or revise a plan approved by them under this section only if –

(a) significant change has occurred, or is likely to occur, since the commencement of the Climate Act 2020, to one or more of the following, as they relate to climate change:

- (i) global action,
- (ii) scientific understanding of climate change,
- (iii) the State’s obligations under relevant international agreements,
- (iv) technological developments,
- (v) distributional impacts and the risk of fuel poverty,
- (vi) equity implications (including intergenerational equity),
- (vii) the principal risks and uncertainties associated with emissions reductions and removals, or
- (viii) social, cultural, environmental and ecological circumstances, including risks to biodiversity, and

(b) the Council is satisfied that the change justifies the variation or revision to a carbon budget programme or climate neutrality objective.

9. Rationalise the ‘have regard to’s’ in 3.(3)

The Bill creates a long list of criteria under section 3(3) that the Minister and Council shall have regard to when devising budgets and plans under the Act. Some of these pertain to the carbon budgets and the longer list of 25 relates to the drafting of plans and policies. However, there is an over-emphasis on economic criteria, quite a lot of duplication, the inclusion of an incorrect reference to the IPCC SR15 report, and no mention of a ‘Just Transition’.

The Bill notes ‘the need to promote sustainable development’ as one of the 25 items which government must ‘have regard to’ in carrying out the activities specified in sections 4, 5 and 6. ‘Sustainable development’ is not defined in the Bill, which undermines the effectiveness of the provision. The term could either be amendment to ‘the 2030 Agenda for Sustainable

Development’, or a definition of ‘sustainable development’ could be included, as is the case in the Minerals Development Act 2017 (section 84(c)).

The duties on the Minister and Government regarding sustainable development should be improved. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019¹⁰ requires climate action plans developed under the Act to explain ‘how the implementation of the plan is expected to contribute to the achievement of sustainable development, including the achievement of the United Nations sustainable development goals’ (S.35(20)). The Bill should also require Ministers to report annually on progress towards achieving the UN Sustainable Development Goals under the proposed Section 11 (‘Climate reporting’),

Recommendations

9.1 **Delete** the following from 3.(3):

- (b): this is a tautology (it requires the government to have regard to itself)
- (e): duplication with (i) re economic case for early action
- (l): duplication with (i)
- (n): covered by (m)
- (y): this is a misleading reference to the IPCC SR15 which is not about biogenic methane but makes a clear reference to the need for urgent and steep reductions in short-lived greenhouse gases.

9.2 **Include** in section 3.(3)(c) a more comprehensive definition of climate justice, with specific reference to the equitable distribution of climate mitigation duties based on differentiated responsibilities and respective capabilities. Ensure this is a criterion under s.3.(3) to which the Minister, the Government and the Council must have regard when devising budgets, plans and sectoral decarbonisation target ranges. At a minimum, this should include:

- g. Distributional impacts and the risk of fuel poverty
- h. Equity implications (including intergenerational equity)
- i. The principal risks and uncertainties associated with emissions reductions and removals
- j. Social, cultural, environmental and ecological circumstances, including risks to biodiversity
- k. The need for a just transition for the workers and communities most impacted by the move to a climate neutral economy
- l. The fair share effort required internationally under the Paris Agreement

10. Just Transition

The expert witness from NESC pointed to a growing trend of automation and dislocation which, coupled with a rapid energy transition, threatens to leave workers and communities behind. NESC advocate an approach to a Just Transition that ensure transitions are equitable and participative in both the process and outcome at national, regional and local levels. It is appropriate in our view to strongly incorporate a requirement to consider the distributive

implications of climate policies on the fuel poor, vulnerable or isolated communities, and specific groups of workers whose livelihoods will be threatened by a move away from fossil fuels. Adequate protection for these groups is crucial for a fair and successful decarbonisation of the economy. In this respect, the Bill should be amended to require the Minister to ensure that plans and policies created under the Bill are consistent with the principles of a just and timely transition. These principles should be embedded in the legal and regulatory framework established by the Bill, to guide the policy decisions that will ultimately be made under it.

This should build on the standards set in the Climate Change (Emission Reduction targets) (Scotland) Act 2019. Firstly, in appointing members to the expert advisory body, the Scottish Ministers must have regard to the desirability of the Committee (taken as a whole) having expertise or experience *inter alia* in climate change policy at Scottish, UK and international level (in particular the social impact of such policy). The Minister is also required to consider the social impact of the interim targets under section 2 of the Scottish Act on those living in poorer or deprived communities. Finally, the Scottish Act (section 35C) also provides substantial definitions of climate justice and just transition which could be expanded upon to improve this Bill.

Recommendations:

10.1 Ensure that the membership of the CCAC taken as a whole includes expertise in the social impact of climate policy under s.9.(4)

10.2 Ensure that the need for a just transition for the workers and communities most impacted by the move to a climate neutral economy is a comprehensively defined criterion under s.3.(3) to which the Minister, the Government and the Council must have regard when devising budgets, plans and sectoral decarbonisation target ranges.

10.3 Include in the Act a set of Just Transition principles (see Climate Change (Emission Reduction targets) (Scotland) Act 2019 section 35C as an example) to guide the implementation of climate policies.

10.4 Amend the requirement for the Minister and Government to have regard to ‘the need to promote of sustainable development’ in section 3(3)(k). Promote is not an appropriate direction given Ireland’s international obligations under the Sustainable Development Goals.

11. Duties of public bodies to perform functions in a manner consistent with national climate policy and carbon budgets

The language in s. 15 requires public bodies to ‘take account’ of climate action plans and the most recent long-term strategy. Strangely however, public bodies are not required to take account of or even have regard to the most recent carbon budget programme. This is a worrying loophole that leaves it open to certain state bodies that are heavily engaged in the energy sector to continue to plan as if the carbon budgets do not apply to them. The following

amendments should be considered following the recommendations by Dr. Andrew Jackson, Dr. Thomas Muinzer and Prof. John Sweeney:

Recommendations:

11.1 Amend s.15 so that public bodies should be required not merely to have regard to 2050 and carbon budgets, but to perform their functions in a manner consistent with such targets and associated carbon budgets.

11.2 Add an additional duty on public bodies under s.15 to require them to exercise their functions compatibly with a goal protecting, conserving and enhancing biodiversity, by utilising nature-based solutions that enhance biodiversity in any or all mitigation and adaptation activities.

11.3 Ensure that the Oireachtas standing committee on climate change is tasked with holding not only Government Departments, but also public bodies, to account for their operations and response to targets under s.14.

11.4 Introduce transparent reporting requirements on public bodies in line with relevant Scottish legislation, including a remit for the Minister to assess and issue directions regarding such reports, and that public bodies must comply with such Ministerial directions. These reports should also demonstrate how governance and management arrangements deliver on climate responsibilities.

11.5 Provide a legislative basis for the planned Climate Action Mandate for all public bodies and introduce a requirement for such bodies to carry out climate stress tests and climate-related financial disclosures.

11.6 Ensure climate action plans are produced not only by local authorities (as currently proposed in the Bill) but all public bodies.

11.7 Ensure that climate action plans are consistent with the laws to protect wildlife and habitats and the National Biodiversity Action Plan

12. Make provision for public engagement

Many of the expert witnesses before the Committee emphasised the importance of public engagement, participation and citizen action. However the Bill does not make any provision for sustained public engagement and the requirement to formally consult with the public is discretionary. The Climate Change (Scotland) Act 2009 contains a very useful provision in relation to public engagement that should be included in this Bill.

Recommendation:

12.1 Create a new provision section 16 requiring the Minister to establish a body or task force to prepare, publish and implement a permanent, large scale public engagement strategy setting out the steps to (a) inform persons in Ireland about the

targets specified by virtue of this Act; (b) encourage them to contribute to the achievement of those targets. The public engagement strategy must, in particular, identify actions which persons in Ireland may take to contribute to the achievement of the climate neutrality objective set out in section 3.(3)(1). The public engagement strategy should be published no later than 31 December 2021.

13. Safeguard biodiversity and avail of nature-based solutions to Climate Action

On May 9th 2019, Dáil Éireann declared a biodiversity and climate emergency in Ireland. Dr Andrew Jackson stated at the JOCCA hearings that ‘the Bill should be amended to ensure that actions to address climate breakdown and biodiversity loss are *fully complementary*. For example, the Bill could usefully promote *via the Climate Act itself* nature-based solutions for mitigation and adaptation that enhance biodiversity’. It is critical to also ensure that climate mitigation measures do not impact biodiversity such as wild birds, mammals, habitats and ecosystems.

In addition, Prof Yvonne Buckley’s contribution to the discussions in the JOCCA stated that:

‘The first of seven objectives in The National Biodiversity Action Plan is to ‘mainstream biodiversity into decision-making across all sectors.’¹⁶

She continued ‘biodiversity is an inextricable component of the Earth system that regulates climate, and which supports life on this planet. If we do not protect and restore biodiversity we will not meet our long term climate goals. Active restoration of biodiversity is a nature-based solution that, if done well, reduces emissions of greenhouse gases, enables carbon capture and storage and ensures the resilience to the disruptive effects of climate change of our land- and sea-scapes, and the critical ecosystem services they provide’.

It is critical that the Climate Bill, ensures that nature-based solutions to climate action are included in the Bill and that biodiversity is safeguarded.

Recommendations

13.1 Appropriate definitions of biodiversity should be included in the Bill. Amend Section 1 of the Principal Act to include the following definition of biodiversity:

The Convention on Biological Diversity (CBD) defines biodiversity as ‘the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species, and of ecosystems’¹⁷.

¹⁶ Department of Culture, Heritage and the Gaeltacht. 2017. National Biodiversity Action Plan 2017-2021.

<https://www.npws.ie/sites/default/files/publications/pdf/National%20Biodiversity%20Action%20Plan%20Engl>

¹⁷ Convention on Biological Diversity, UNEP/CBD/94/1

13.2 Appropriate definitions of nature-based solutions should be included in the Bill. Amend Section 1 of the Principal Act to include the following definition of nature-based solutions

'Nature based solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions'¹⁸.

13.3 Explicitly recognise the integral role of biodiversity as it relates to climate in the Climate Bill and Principal Act. Recognise explicitly the integral role of biodiversity in regulating the climate and ensuring long-term resilience to climate change in this Bill and that all policy instruments resulting from this Bill and the Principal Act comply with, and actively support, the implementation of the National Biodiversity Action Plan.

13.4 Amend Section 3.1 to include reference to environmentally sustainable economy.

13.5 Ensure that the Climate Bill meets national obligations in the National Biodiversity Action Plan. The first objective of the National Biodiversity Action plan is to 'Mainstream biodiversity into decision-making across all sectors'. Therefore, the Bill should ensure that:

All policy instruments resulting from this Bill and the Principal Act should comply with, and actively support, the implementation of the National Biodiversity Action Plan. Amend Section 3(3) to add Section 3(3)(z): Nature-Based solutions for climate action and the National Biodiversity Action Plan.

14. Amendment of National Oil Reserves Agency Act 2007

14.1 Amend section 37B of the National Oil Reserves Agency Act 2007 to include consideration of biodiversity research as follows -

(a) in subsection (9) -

(i) by the insertion of the following paragraphs after paragraph (c) [amendments are highlighted]:

(ca) to support projects and research that seek to increase climate and biodiversity resilience in the State;

(cb) to support projects and research that seek to increase the removal of greenhouse gas, particularly nature-based solutions that ~~enhance~~ protect and restore biodiversity, and to mitigate impacts to biodiversity;

¹⁸ https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en

Add after (cb):

(cc) To support research into adequate measurement and monitoring of the effectiveness of nature-based solutions which are implemented

(ii) by the substitution, in paragraph (d), of the following subparagraphs for subparagraph (iii):

'(iii) increase energy efficiency in the State,

(iv) increase climate and biodiversity resilience in the State,

(v) increase the removal of greenhouse gas; and

(iii) by the substitution, in paragraph (e), of the following subparagraphs for subparagraph (iii):

(iii) increasing energy efficiency in the State,

(iv) increasing climate and biodiversity resilience in the State,

(v) increasing the removal of greenhouse gas.

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