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Review of Climate Change Act
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Submission to the Review of the Climate Change Act 2011

Lawyers for Forests Inc (LFF) is a not-for-profit organisation incorporated in October 2000. It is a voluntary association of legal professionals working towards the protection and conservation of Australia's remaining old growth and high conservation value forests.

LFF welcomes the Victorian government's review of the *Climate Change Act 2011* and sees it as an important opportunity for Victoria to define its climate change responsibilities in light of global warming being universally acknowledged as the most urgent environmental issue for the planet. Given Victoria's lamentable position as the state with the highest per capita greenhouse gas emissions in the country, LFF views strong action as a moral imperative, quite apart from also representing an extraordinary economic opportunity. Strengthening the *Climate Change Act*, as well as implementing the various other legislative options set out below, will go a long way to redressing Victoria's massive emissions debt.

LFF does not support the contention that since the federal government has passed its legislation placing a price on carbon pollution Victoria should be winding back our own carbon pollution mitigation strategies. The price on pollution is not sufficient alone to change behaviours and transition to a low-carbon economy. Strong complementary policies and actions from the states and territories, particularly the largest states, are crucial to the urgent task of transforming the economy.

LFF members have been greatly disturbed by policies already implemented by the Baillieu government that hinder the transition to a low-carbon state. For example, the following policies are seen as counter-productive and short-sighted and taking Victoria backwards:

- Destroying the embryonic wind power industry by effectively making it impossible now to build wind farms in Victoria. The loss of jobs and investment as a result of this policy is economic vandalism while the hypocrisy of allowing people to veto wind turbines up to 2 kms away but not coal mines in their backyards is staggering;
- Removing the premium solar feed-in tariffs (noting the tariffs should always have been gross not net to really encourage people to invest the thousands of dollars needed for rooftop solar PV systems);
- Continuing and even increasing native forest logging rather than moving the industry into the far more lucrative and less environmentally damaging plantation logging. This is quite disturbing given Victoria's position as the most cleared state in the country;
- Allowing the loss-making Vicforests to continue its forests plunder for no real return to the public purse;
- Moving to exempt native forest logging from the *Flora and Fauna Guarantee Act* rather than sharpening the teeth of that act in the interests of protecting Victoria's unique and highly endangered animals and plants;
- Approving and contributing funding to new coal fired power stations (HRL), gas powered facilities and freeways. Clearly the requirement in the *Climate Change Act* to consider the greenhouse gas emissions of all major projects is being ignored;
- Requiring 5% of the state to be burned each year despite evidence showing indiscriminate burning of certain forests and ecosystems merely dries them out and makes them more flammable, quite apart from the loss of animal life.

In essence, LFF endorses the comments set out below in their entirety which have been prepared by the Victorian Environment Defenders' Office. As LFF's focus is primarily on protecting forests, we particularly emphasise dot point 10 below.

Sincerely

Isabelle Border
President
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1. A Victorian plan for climate change, with the Climate Change Act as its cornerstone

The *Clean Energy Future* package is a great first step to moving Australia to a low-pollution economy. But it will not solve the climate crisis on its own. It does not apply to all sectors that produce greenhouse gases (the transport and land sectors, for example). In some areas its impact will be weakened when, despite the increased cost of polluting, people are discouraged from reducing their emissions because of factors other than price (for example, they are worried that the federal government will change the policy). It also needs to be complemented by measures that address Victoria's specific needs and interests.

Victoria must develop its own coherent approach to climate change. There are many complementary actions that State governments can take to reduce emissions and prepare for the impacts of climate change. The Climate Change Act — setting out climate policy goals, requiring the Minister to plan for climate change, and giving the government powers and obligations to reduce emissions — is a good vehicle to provide a framework for a coherent State-based approach to climate change.

2. A strong emission reduction target

The Climate Change Act currently contains a legislated commitment to reduce greenhouse gas emissions by 20% from 2000 levels by 2020. Victoria should maintain or increase that commitment. That target, the most ambitious in the country, makes Victoria a climate policy leader — a position to be embraced, not feared. It makes Victoria a leader in protecting its citizens from the harmful effects of climate change, and giving future generations a safe and

clean environment. It also positions Victoria as an economic leader — promising a head start in the emerging clean economy, and a clean-tech investment environment more competitive than other States.

3. An obligation to consider climate change when making decisions

Many of the decisions made by the State Government have a significant impact on Victoria's response to climate change. The decision to build a new freeway, for example, has a big impact on the State's contribution to climate change. Yet the decision-maker is not subject to a carbon price. The Climate Change Act provides a way to address this by requiring government decision-makers to consider climate change when making certain decisions. This feature of the Climate Change Act must be maintained and expanded. The list of decisions to which it applies should include decisions under the *Planning and Environment Act 1987* (Vic), as well as the *Mineral Resources (Sustainable Development) Act 1990* (Vic), the *Environment Effects Act 1978* (Vic) and the *Electricity Industry Act 2000* (Vic).

4. A performance standard for power stations

The Climate Change Act should be used to implement a 0.5 CO₂e-/MWh performance standard for new power stations. This would prevent the construction of polluting new power stations (like that currently proposed by HRL) which 'lock in' greenhouse gas emissions for decades. This standard could be implemented using powers that already exist in the Climate Change Act, and would complement the absence of any similar standard at a federal level. Without it, these power stations might start up in the early years of the carbon price — while

the price signal is relatively low and the policy uncertainty is relatively high — and ‘lock in’ decades of carbon pollution.

5. Strong environmental impact assessment legislation

Victoria needs effective environmental impact assessment (EIA) laws which will identify proposed projects with a big impact on the environment and climate, and empower the government to reject them or impose conditions on their approval. The *Environment Effects Act 1978* (Vic) needs to be updated and replaced with a modern and effective EIA law — one that is suited to the times, and competitive with other Australian jurisdictions. The recently published report of the Environment and Natural Resources Committee (www.parliament.vic.gov.au/enrc/article/1491) has clear recommendations of how to do this.

6. Removal of barriers to renewable energy industry

The *Clean Energy Future* package provides \$13.2 billion public funding for clean energy, and is expected to leverage many billions more in private finance. If Victoria wants to reap the benefits of that funding, it needs to make the State attractive to those investors. That means removing regulatory barriers — notably, the recently introduced planning rules for wind farms — which threaten to shut clean energy industry out of the State. The *Clean Energy Future* will drive investment in renewable industry across Australia; but if Victoria continues to introduce and support regulatory barriers to its establishment, that investment will go elsewhere, and Victoria will surrender economic opportunities to other States.

7. Creation of extra incentives for renewable energy in Victoria

For the same reasons, the State Government should give clean energy industry an incentive to come to Victoria, rather than other States. The *Clean Energy Future* package will drive clean energy investment across Australia. By adding financial support, tax relief or direct funding to that package, the government can make sure that those projects come to Victoria. More permanent modes of support (a gross renewable energy feed-in tariff, for example) can achieve the same thing and more.

8. Ensuring that fossil fuel mining is conducted sustainably

The State Government has a responsibility to ensure that fossil fuel mining in Victoria is sustainable. Fossil fuels extracted for export are not subject to the carbon price, and the regulation of mining is traditionally and primarily a State Government responsibility. The State Government should therefore require more environmental impact assessment of exploration and mining proposals, and ensure that critical environmental assets are protected through ‘no-go’ zones for mining. In addition, communities must be given greater rights to information and objection to local mining projects. Until these measures are put in place, a moratorium should be imposed on fossil fuel mining in Victoria.

9. Strong energy efficiency laws

Victoria has already led the nation in energy efficiency laws through the creation of the Victorian Energy Efficiency Target (VEET) and the Environment and Resource Efficiency Plan (EREP) schemes. These schemes need to be maintained and expanded (including the VEET, which the Government has already doubled). They should not be removed or reduced on the assumption that the federal government will replace them. Until a National

Energy Saver Incentive scheme comparable to the VEET is actually in place, and until the federal Energy Efficiency Opportunities scheme is equipped with the mandatory components of the EREP scheme, both the VEET and the EREP schemes need to be maintained and expanded.

10. Better legal protection for biodiverse carbon stores

Protecting native vegetation and native forests is another 'low-hanging fruit' of climate change mitigation, offering as it does the opportunity to achieve several policy goals at once. In recognition of this opportunity, the State should maintain and strengthen existing laws which protect our biodiverse carbon stores. Forestry laws (including the *Flora and Fauna Guarantee Act 1988* (Vic) and the *Code of Practice for Timber Production 2007*) should give more protection to native forests, not less. Victoria's native vegetation management laws also need to be maintained and strengthened, with a greater emphasis on avoiding native vegetation clearance, and better accounting methods to ensure that 'net gain' is actually achieved.