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The Committee Manager
Legislative Assembly, Environment and Planning Committee
Parliament House, Spring Street
East Melbourne VIC 3002

By email: ClimateChangeInquiry@parliament.vic.gov.au

Dear Committee Manager

Inquiry into Tackling Climate Change in Victorian Communities

The Law Institute of Victoria (**the LIV**) welcomes the opportunity to provide a submission to the Legislative Assembly Environment and Planning Committee Inquiry into tackling climate change in Victorian communities (**the Inquiry**).

The actions of the Victorian Government and its support of the initiatives of urban, rural and regional communities to address climate change are important to the future of Australia. The LIV makes the following submission to the Inquiry:

1. The LIV has previously and continues to call for a federal approach¹, led by the Commonwealth Government, to ensure climate change policy remains consistent, coherent, and distributes responsibility nation-wide. The LIV considers there is an urgent need for nation-wide action and a holistic and comprehensive policy approach. However, in the absence of such policy we commend and reaffirm the Victorian Government's leadership on climate change and support further action to continue Victoria's leading role.
2. Limited action on a comprehensive climate change policy and legislation in Australia continues to have wide-ranging impacts on energy, transport, housing, buildings and infrastructure projects, including stifling much needed reform due to uncertain future policy. It has been argued that significant action taken now to transition Victoria to a zero emissions economy will reduce the long-term costs and mitigate the impacts of climate change on the Victorian community. The LIV recommends that the State Government undertakes further legislative reform to implement the policy initiatives to respond to and mitigate against the impacts of climate change and most importantly, to adopt emissions reductions targets that will enable Victoria to reach net zero emissions by 2050, in line with the Expert Panel recommendations.

¹ See, eg, the LIV's submissions to the Senate Standing Committees on Environment and Communications' inquiry into the Coal-Fired Prohibition Funding Power Bill 2017 (2019); the Senate Standing Committees on Environment and Communications' inquiry into Australia's Faunal Extinction Crisis (2018); the Senate Standing Committees on Environment and Communications' inquiry into Current and Future Impacts of Climate Change on Housing, Buildings and Infrastructure.

Action by the Victorian Government

3. The *Climate Change Act 2017* (Vic) (**'the Act'**) was introduced on 1 November 2017. The Act includes a long-term emissions reduction target for the State to achieve net zero greenhouse gas emissions by the year 2050. The Independent Expert Panel on Interim Emissions Reduction Targets for Victoria (2012-2015, 2026-2030) (**'the Expert Panel'**) recommended interim targets of:
 - 32-39% below 2005 levels in 2025
 - 45-60% below 2005 levels in 2030.²
4. The Expert Panel reported that these interim targets are achievable and will provide a clear signal to business and investors to drive the transition to a zero emissions economy. Further, modelling commissioned by the Expert Panel found that a pathway involving higher emissions reductions to 2030 is more cost effective than delaying significant reductions until after 2030³.
5. The LIV recommends that the Victorian Government adopt the interim emissions reduction targets recommended by the Expert Panel, with targets set under the Act at the higher end of the range. By way of example, the ACT introduced legislation in 2010, setting targets for an emissions reduction of 40% below 1990 levels by 2020; 80% below 1990 levels by 2050; and net zero emissions by 2060.⁴ Currently, the ACT is on track to meet its 2020 target, with its renewable energy target extended to 100% by 2025.⁵
6. The ACT's emissions reduction targets were supported by action plans and programs to increase energy efficiency.⁶ The ACT implemented a highly successful reverse auction process and feed in structure to secure new renewable generation at low cost. It is presently focussed on its Active Transport Framework and a Low Emission Vehicle Strategy.
7. In addition to establishing responsible emissions reduction targets, the LIV also recommends that the Victorian government's policy to address climate change be embedded in relevant legislation. Section 17 of the Act requires certain government decision makers to have regard to climate change when making decisions under legislation specified in Schedule 1. However, the LIV notes that Schedule 1 does not include the *Planning and Environment Act 1987* ('PE Act'). Consequently, the LIV recommends that the PE Act be included in Schedule 1 of the Act, and that this include any decision of the Minister to amend a Planning Scheme under s 4B of the PE Act.
8. The LIV also notes that under s 60(1)(e) of the PE Act, a responsible authority must consider the effects a permit may have on the environment when determining a permit application. The LIV contends that this provision should also be captured under s 17 of the Act, to ensure that climate change is appropriately regarded as a factor for consideration in the determination of a permit application.

² Independent Expert Panel, *Interim Emissions Reduction Targets for Victoria (2012-2030) Final Report* (2019), 9.

³ *Ibid*, 9.

⁴ *Climate Change and Greenhouse Gas Reduction Act 2010*.

⁵ Climate Council, *Submission to the Independent Expert Panel on Interim Emissions Targets for Victoria* (2018), 6.

⁶ Carbon Neutral ACT Government Framework (2014).

9. The LIV also recommends that legislation be introduced to support Victorian Government policy to protect the natural environment, in particular, the implementation of *Protecting Victoria's Environment- Biodiversity 2037* policy through the Victorian Planning Provisions and other relevant legislation. Further, the LIV recommends that the Government take further action to support the adoption by local councils of Green Wedge Management Plans.

The relevance of planning to mitigate climate change impacts

10. Town planning and building law and policy play a crucial role in driving emissions reductions and mitigating the impacts of climate change. An amendment to Schedule 1 of the Act to require the Planning Minister to consider the impacts of climate change in any decision relating to a change to a Planning Scheme is critical to protecting Victorian communities from the impacts of climate change.
11. The importance of the built environment in minimising climate change impacts on the community is well understood. For example, the *Heatwave Plan for Victoria* notes a number of relatively simple planning-related factors which can mitigate the impact of heat on population, including:
 - Building standards;
 - Thermally protective building design;
 - Fixtures such as passive cooling and external blinds;
 - Greening the built environment, increasing energy efficiency and improving shading and insulation of buildings; and
 - Regulating planning, including building standards and land use planning schemes.
12. Local governments are taking steps to incorporate provisions in their Planning Schemes to mitigate against built environment climate change impacts such as 'Heat Island' effect which contributes to the severity of heatwaves⁷. Like many impacts of climate change those most seriously affected are Victoria's vulnerable populations such as low-socioeconomic and agricultural communities and the homeless.⁸ Simple changes in the way in which planning legislation, building legislation, codes and infrastructure projects are delivered can significantly minimise these impacts.
13. Improved planning and building law and policy will play a critical role in minimising the impacts of climate change, particularly on the most vulnerable members of the community. Legislative changes requiring considered design responses for building, housing and infrastructure so as to limit the impacts of climate change could include active design to maximise energy efficiency. Parameters for site coverage and open space in developments, proximity to local services, transport and amenities and landscaping would also have a significant positive affect on the community.
14. For example, the recent Planning Scheme Amendment GC110 highlights the potential for local planning policies, attempting to adapt to Climate Change with local Environmentally Sustainable Development (ESD) policy, to create inconsistency between councils. This reinforces the role the Victorian Government can play in leading and supporting local councils who are proactively

⁷ For example, City of Boroondara, City of Moreland and the City of Whitehorse.

⁸ Better Health Channel, *Heat stress and older people* (November 2015) Better Health Channel <<https://www.betterhealth.vic.gov.au/health/healthyliving/heat-stress-and-older-people>>.

seeking to adapt to climate change. Similarly, the role out of Green Wedge Management Plans in the Local Planning and Policy Framework should be supported.

15. At a precinct planning level, consideration of the cumulative impact of developments is also an important and should be reinforced in any planning or development approval.

Conclusion

14. The LIV recommends that the Victorian Government adopt the interim emissions reduction targets recommended by the Expert Panel and set the targets under the Act at the higher end of the range.
15. Further, the LIV recommends that Schedule 1 of the Act be amended to include the requirement that the Planning Minister and/or relevant authority consider the impacts of climate change in any decision relating to a change to a Planning Scheme or the granting of a permit under the PE Act.
16. The LIV recommends that the Victorian Government legislate to implement management plans and planning policy to address climate change and also support local communities to accelerate the inclusion of ESD and Green Wedge Management Plans in the Local Planning and Policy Frameworks.
17. State regulatory frameworks must continually respond, adapt to and account for the impacts of climate change in our community. Greater legislative requirements for government bodies, decisions makers and operators to plan for and respond to climate change are required.
18. Victorian Government legislation must support the initiatives of urban, rural and regional communities in Victoria. Amendments may be necessary to the Victorian Planning Provisions as well as relevant legislation to implement the *Protecting Victoria's Environment- Biodiversity 2037* policy.

If you would like to discuss any of the matters raised in this letter, please contact Senior Lawyer for the Property and Environmental Law Section, Paul Snow, at [REDACTED]

Yours sincerely

[REDACTED]

Stuart Webb

President
Law Institute of Victoria