



Environmental  
Defenders Office



Environmental  
Justice Australia

6 July 2021

Human Rights Unit  
Attorney-General's Department  
3-5 National Circuit Barton  
ACT 2600 (02) 6141 6666

By email: [Humanrights@ag.gov.au](mailto:Humanrights@ag.gov.au)

Dear Sir/Madam

**Australia should take climate action consistent with its human rights obligations and the Universal Periodic Review recommendations**

Environmental Defenders Office (EDO) and Environmental Justice Australia (EJA) urge the Australian government to take real and effective climate action now to fulfil its international human rights obligations, as recommended by several countries in Australia's 2021 Universal Periodic Review (UPR).

EDO is the largest environmental legal centre in the Australia Pacific, dedicated to protecting our climate, communities, and shared environment by providing access to justice, running groundbreaking litigation, and leading law reform advocacy. EJA is a leading public interest legal organisation engaged in landmark litigation, political advocacy and law reform for environmental and climate justice. EDO and EJA, together with US-based environmental law organisation, Earthjustice, submitted [recommendations](#) to Australia's Universal Periodic Review in July 2020 to address Australia's failure to satisfy its international human rights obligations to prevent immediate and future human rights violations caused by climate change.

**The international community's clear recognition that Australia's human right obligations require strong climate action by the Government now**

In January 2021, more than 120 countries met during the UPR to examine Australia's human rights record. The recommendations made to Australia demonstrate the international community's clear recognition that:

- climate change poses an immediate and foreseeable threat to human rights, both within Australia and around the world; and
- Australia has clear obligations under international human rights law to take immediate measures to reduce its contributions to climate change to the highest possible ambition to prevent immediate and foreseeable human rights violations.

We also note the comments made by United Nations human rights bodies about Australia’s climate change obligations under conventions it is a signatory to, summarised in the *Compilation on Australia: Report of the Office of the United Nations High Commissioner for Human Rights*:<sup>i</sup>

The Committee on the Rights of the Child was concerned that Australia had made **insufficient progress on the goals and targets set out in the Paris Agreement** and about its continuing investment in extractive industries. The Committee on Economic, Social and Cultural Rights was concerned about the increase of carbon dioxide emissions and the country’s support to new coal mines and coal-fired power stations. The Committee on the Rights of the Child urged Australia to reduce its emissions of greenhouse gases, by establishing targets and deadlines to phase out the domestic use and export of coal and accelerate the transition to renewable energy.

In its response to the Report of the Working Group, Australia noted that it is “committed to the goals of the Paris Agreement and is taking the practical action needed to reduce emissions . . . [and] will meet its 2030 Paris target and reach net zero as soon as possible, preferably by 2050.”<sup>ii</sup> Australia has accepted recommendations from Fiji, France, Haiti, and Cuba with regards to climate change and largely contemplate Australia making some tangible steps to address climate change impacts.

However, Australia’s current position is not to pursue the following UPR recommendations – in the Table below - which call on Australia to meet its human rights obligations to **prevent** dangerous global warming and consistently with the goals of the Paris Agreement to keep warming well below 2°C, preferably to 1.5°C, compared to pre-industrial levels.

<b>Marshall Islands</b>	Work consistently towards its target in conformity with the Paris Agreement to keep global warming below 1.5°C, by phasing out the use of coal.
<b>Vanuatu</b>	Implement more effective climate change policies based on a long-term plan on lowering fossil fuel use, and reducing pollution, which are contributing to adverse effects on the right to life and right to health of people due to global warming, as well as toxic emissions.
<b>Switzerland</b>	Step up its efforts to reach its emissions reduction goal set by the Paris Agreement and to integrate a human rights-based approach into its efforts aimed at combating climate change.
<b>Uruguay</b>	Promote policies and measures for mitigating the impact of climate change on human rights of persons belonging to vulnerable groups.

### **Climate action consistent with protecting human rights**

Recent developments underscore the need for and urgency of Australia taking stronger climate action to limit warming to 1.5°C. The Intergovernmental Panel on Climate Change Special Report on Global Warming of 1.5°C predicted that a temperate rise that breached 1.5°C and up to 2°C above the pre-industrial level would have catastrophic impacts on human health and well-being, sea-level, coral reefs,

biodiversity (reduction and mass extinction), fisheries, food crops, Arctic permafrost and increase the likelihood of extreme weather events.<sup>iii</sup> These impacts will affect Australia.

Last month, the World Heritage Committee recommended that the Great Barrier Reef should be inscribed on the List of World Heritage in Danger, reiterating that ‘climate change remains the most serious threat’ to the Great Barrier Reef and urging Australia to ‘accelerate[] action at all possible levels . . . to address the threat from climate change, in accordance with the Paris Agreement.’<sup>iv</sup> Moreover, the International Energy Agency recently identified that achieving net zero emissions by 2050 requires advanced economies like Australia to phase out coal-fired power plants by 2030 and establish a zero-emissions electricity grid by 2035.<sup>v</sup>

Australians are already suffering from the impacts of climate change, including extreme weather events intensified by a changing climate—and they will only worsen as the climate warms. This suffering while affecting all people, is and will acutely and disproportionately affect the human rights of First Nations people,<sup>vi</sup> young people,<sup>vii</sup> and people with disabilities.<sup>viii</sup> Australia’s catastrophic 2019/2020 bushfires and recent flooding across eastern Australia demonstrate that a temperature increase of just over 1°C is already having a dramatic effect on the lives of Australians. As Australia’s Federal Court recently determined, based on detailed scientific analysis specific to Australia’s current plausible climate futures:

The physical environment will be harsher, far more extreme and devastatingly brutal when angry. As for the human experience – quality of life, opportunities to partake in nature’s treasures, the capacity to grow and prosper – all will be greatly diminished. Lives will be cut short. Trauma will be far more common and good health harder to hold and maintain. None of this will be the fault of nature itself. It will largely be inflicted by the inaction of this generation of adults, in what might fairly be described as the greatest inter-generational injustice ever inflicted by one generation of humans upon the next.<sup>ix</sup>

The unavoidable harm to the human rights of Australia’s people and future generations detailed by the Court and experts before it, include an acceptance that even at 2°C, Australians will:<sup>x</sup>

- face certain, serious impacts to their rights to life and health,
- be exposed to circumstances of extreme heat with ‘severe impacts on human health and wellbeing’
- endure longer fire seasons for the south and east of Australia and an increase in the number of dangerous fire weather days.

Given the impacts of a temperature rise beyond 1.5°C, Australia has human rights obligations to adopt policies, including Nationally Determined Contributions, and drastically phasing out fossil fuels, consistent with a pathway that keeps warming at no more than 1.5°C. It is currently failing to do so, risking the long-term viability of a safe, clean, healthy, and sustainable environment in Australia.



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<sup>i</sup> Human Rights Council, Working Group on the Universal Periodic Review Thirty-Seventh Session, 'CompReport of the Office of the United Nations High Commissioner for Human Rights' (13, Nov., 2020) A/HRC/WG.6/37/AUS/2, [17] (references removed, emphasis added).

<sup>ii</sup> Report of the Working Group on the Universal Periodic Review, Australia, *Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/47/8/Add.1 (2 June 2021), ¶ 28.

<sup>iii</sup> See, eg, Intergovernmental Panel on Climate Change, Special Report on Global Warming of 1.5°C, Summary for Policymakers, Part B, pp.7-11 and *Sharma by her litigation representative Sister Marie Brigid Arthur v Minister for the Environment* [2021] FCA 560 (**Sharma**) at [61].

<sup>iv</sup> World Heritage Committee, *State of Conservation of Properties Inscribed on the World Heritage List* (21 June 2021), WHC/21/44.COM/7B.Add, pp. 84-85, <https://whc.unesco.org/archive/2021/whc21-44com-7B.Add-en.pdf> (emphasis added).

<sup>v</sup> International Energy Agency, *Net Zero by 2050: A Roadmap for the Global Energy Sector*, p. 117, [https://iea.blob.core.windows.net/assets/20959e2e-7ab8-4f2a-b1c6-4e63387f03a1/NetZeroBy2050-ARoadmapfortheGlobalEnergySector\\_CORR.pdf](https://iea.blob.core.windows.net/assets/20959e2e-7ab8-4f2a-b1c6-4e63387f03a1/NetZeroBy2050-ARoadmapfortheGlobalEnergySector_CORR.pdf).

<sup>vi</sup> See, eg, Jessica K Weir, Bhiamie Williamson and Francis Markham, Submission to the Royal Commission into National Natural Disaster arrangements (Submission 969), 28 April 2020. <https://naturaldisaster.royalcommission.gov.au/system/files/submission/NND.001.00969.pdf>

<sup>vii</sup> See, eg, *Sharma by her litigation representative Sister Marie Brigid Arthur v Minister for the Environment* [2021] FCA 560 (**Sharma**).

<sup>viii</sup> See, eg, *Human rights and climate change*, GA Res 41/21, 41<sup>st</sup> session, UN Doc A/HRC/41/L.24 (12 July 2019).

<sup>ix</sup> *Sharma*, [293].

<sup>x</sup> *Sharma*, [67], [74].