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Senate Inquiry into Climate Change Amendment (Duty of Care and Intergenerational Climate Equity) Bill 2023

Thank you for the opportunity to contribute to the Senate Inquiry into the Climate Change Amendment (Duty of Care and Intergenerational Climate Equity) Bill 2023 (“the Bill”).

The Health Care Consumers’ Association (HCCA) is pleased to present this submission to the Inquiry. Our submission supports the need for, and urgency of, the proposed Bill’s requirements for significant administrative decisions to include consideration of the intergenerational impacts on children.

We provide comments on the proposed definition of health, the meaning of a significant decision and the activities and processes within the health sector that have environmental impacts.

Our submission is informed by our members, our Climate Health and Wellbeing Position Statement¹ and other policies and our commitment to the Climate and Health Alliance’s Framework for a National Strategy on Climate, Health and Well-being for Australia².

We urge members of the Senate Inquiry to support the introduction of the Bill as a matter of urgency.

Yours sincerely

A handwritten signature in black ink, appearing to read "Darlene Cox", is written over a light grey rectangular background.

Darlene Cox
Executive Director
23 November 2023

Health Care Consumers’ Association

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SUBMISSION

**Senate Standing Committee on
Environment and Communications’
Inquiry into the proposed:**

**Climate Change Amendment (Duty of
Care and Intergenerational Equity) Bill
2023**

November 2023

About HCCA

The **Health Care Consumers' Association (HCCA)** is a health promotion agency and the peak consumer advocacy organisation in the Canberra region. HCCA provides a voice for consumers on local health issues and provides opportunities for health care consumers to participate in all levels of health service planning, policy development and decision making.

HCCA involves consumers through:

- consumer representation and consumer and community consultations;
- training in health rights and navigating the health system;
- community forums and information sessions about health services; and
- research into consumer experience of human services.

HCCA is a Health Promotion Charity registered with the Australian Charities and Not-for-Profits Commission.

HCCA's approach to this submission

HCCA is a consumer and community organisation. We draw on the views and experiences of our membership and networks to advocate for consumers.

In preparing our response to this Inquiry we have drawn on the knowledge, experiences and concerns of our members as they relate to the proposed Bill. The HCCA Climate Health and Well Being Position Statement³ and the Climate and Health Alliance's (CAHA) Framework for a National Strategy on Climate, Health and Well-being for Australia⁴ has also guided our response.

1. General comments

The proposed Bill is consistent with HCCA's Climate Health and Well Being Position Statement⁵. This Position Statement recognises the health impacts of and health care contribution to climate change. Therefore the health sector has a role to play in mitigating climate change.

The proposed Bill is consistent with the Climate Action Health Alliance's (CAHA) Framework for a National Strategy on Climate, Health and Well-being for Australia's vision of:

a fair and sustainable national policy framework that recognises, manages and addresses the health risks of climate change and promotes health through climate change action⁶

The proposed Bill is also consistent with the CAHA Framework for a National Strategy's Principles of:

1. The right to health
2. Community safety & resilience
3. Environmental protection as a foundation for health and well-being
4. Health in all Policies
5. Intra- and intergenerational equity
6. Minimising and managing risk

The 'right to health' which sits at the centre for the proposed Bill is already contained in the Commonwealth's commitment to the International Covenant on Economic, Social and Cultural Rights.⁷ As defined under that treaty, "the right to health is the right to the enjoyment of the highest attainable standard of physical and mental health". This treaty recognises that the right to health includes a broad range of socioeconomic factors including a healthy environment which the proposed Bill seeks to address.

At a broader level, we would recommend that the Senate Inquiry also look at related legislative changes overseas. One which seem particularly pertinent and which adopts a broader whole-of-government/whole-of-community approach is the Welsh *Wellbeing of Future Generations Act 2015* ("the Welsh Act"). There is a useful video explaining the Welsh Act at https://youtu.be/RuYzNgUZi98?si=v9Na_BNDBgGzLBhC and detailed material on the Welsh Act's website <https://www.gov.wales/well-being-of-future-generations-wales>.

The Welsh Act is about ensuring that future generations have at least the same quality of life as they do now. Its seven connected well-being goals are a:

- prosperous Wales

- resilient Wales
- healthier Wales
- more equal Wales
- Wales of more cohesive communities
- Wales of vibrant culture and thriving Welsh language
- globally responsible Wales

Under the Welsh Act, better decision-making is required by ensuring that public bodies:

- take account of the long term
- help to prevent problems occurring or getting worse
- take an integrated approach
- take a collaborative approach, and
- consider and involve people of all ages and diversity.

While the Bill being considered for legislation in Australia is an important step, it may be seen as a first step to a broader legislative requirement to consider the well-being of future generations across a much wider range of policy areas. Among other things this could require Governments and Government agencies, to consider the long-term health impacts of policies which create a more unequal society or contribute to poor socio-economic outcomes.

The ACT Government is pioneering this kind of legislative requirement through the ACT Human Rights (Healthy Environment) Act Amendment 2023. The Healthy Environment Amendment provides express statutory recognition of the right to a clean, healthy and sustainable environment.

Incorporating this right to a healthy environment will ensure that environmental and climate impacts are given proper consideration in the exercise of all public authority functions. Enshrining this right is consistent with a growing international consensus around the importance of environmental protections and healthy environments as a human right.

In July 2022, the United Nations Assembly adopted a resolution declaring access to a clean, healthy and sustainable environment a universal human right⁸. This Bill upholds a similar commitment, in asking decision makers to consider the health impacts of their decisions, not only for this generation but also for those that follow.

2. Comments on proposed amendment

Section 5 Definitions

(a) Health and wellbeing definition

The proposed definition of “health and wellbeing” to be inserted is:

“***health and wellbeing*** includes the following:

- (a) emotional health and wellbeing;
- (b) cultural health and wellbeing;
- (c) spiritual health and wellbeing.”⁹

We urge that the definition of health and wellbeing should be adjusted in line with existing international definitions provided by the World Health Organisation (WHO) and the Ottawa Charter on Health Promotion.

The World Health Organisation Constitution defines health as:

“Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”¹⁰

The Ottawa Charter on Health Promotion states that:

“To reach a state of complete physical, mental and social well-being, an individual or group must be able to identify and to realize aspirations, to satisfy needs, and to change or cope with the environment. Health is, therefore, seen as a resource for everyday life, not the objective of living. Health is a positive concept emphasizing social and personal resources, as well as physical capacities.”¹¹

The proposed Bill could expand the definition of health to include the following to ensure that all facets of health are covered, including the enablers of health and reduction of health inequities. We think it is important for decision-makers to see these definitions in the Bill to understand the multi-faceted nature of “health and wellbeing”. It is important that decision makers who are not experts in the health sector understand the breadth of relevant considerations.

The definition of health and wellbeing provided in the Bill should encompass the Ottawa Charter’s list of **prerequisites for health**:

“The fundamental conditions and resources for health are:

- peace,
- shelter,
- education,
- food,
- income,
- a stable eco-system,
- sustainable resources,
- social justice, and equity.

Improvement in health requires a secure foundation in these basic prerequisites.”

Analysis of potential negative health impacts under the Bill must therefore encompass and consider the same criteria.

Building healthy public policy is an Ottawa Charter action that:

“puts health on the agenda of policy makers in all sectors and at all levels, directing them to be aware of the health consequences of their decisions and to accept their responsibilities for health.”¹²

We support the proposed Bill as contributing to this action and urge the consideration of health in all its dimensions in all public policy.

The **social determinants of health**:

“are the non-medical factors that influence health outcomes. They are the conditions in which people are born, grow, work, live, and age, and the wider set of

forces and systems shaping the conditions of daily life. These forces and systems include economic policies and systems, development agendas, social norms, social policies and political systems.”¹³

Health equity:

“Health equity is defined as the absence of unfair and avoidable or remediable differences in health among population groups defined socially, economically, demographically or geographically”¹⁴

We know that climate change has disproportionate effects on marginalised communities. It has profound risks and impacts on health, particularly for vulnerable populations such as older people, people with chronic conditions, those who are socio-economically disadvantaged, people with a disability, women, girls, and people who are from a culturally and linguistically diverse backgrounds. Climate change impacts social determinants of health, including housing, food, and water. We would like to see the inclusion of an equity focus to acknowledge that environmental changes can have differing social, economic, public health, and other adverse impacts on vulnerable populations and their capacity for resilience and to engage in reduction and mitigation strategies is more limited.¹⁵

Administrative decision makers need to be aware of the differing impacts of climate change on different groups within our communities. That is, decision makers need to think beyond the impacts that may affect themselves and their own community. Thus a definition of, and requirement to consider, health equity should be included in the proposed Bill.

(b) Relevant enactment definition

The relevant enactment definition could be broadened to include those Acts administered by the Department of Health and Aged Care¹⁶. This would highlight to administrative decision makers within that Department that the proposed Bill covers their decisions. As noted above, the environmental impacts of health care need to be considered in all health-related policies and all policies should be evaluated for their indirect impacts on health.

Part 4A Section 15C Meaning of a *significant decision*

The proposed meaning refers to a ***significant decision*** being one that “over the lifetime of one or more facilities” results directly or indirectly in greenhouse emissions that are scope 1, 2 or 3 or over 100,000 tonnes.

The restriction of significant decisions to facilities seems limiting. We suggest that **any activities proposed or provided** under the Relevant Enactments, including any facilities associated with those activities, should be covered by the proposed Bill. This is particularly important in the health sector’s multitude of activities as well as its physical infrastructure. As we wrote in our *National Climate and Health Strategy*¹⁷ submission, we need to “decarbonise the health system to reduce greenhouse gas emissions and the carbon footprint.”

Conclusion

HCCA supports the intention of the Bill and the suggestions above are designed to strengthen its intention. For example, in focussing on one age group such as children, all the other known factors that affect health need to also be considered, such as children of Aboriginal and Torres Strait Islanders, children in rural and remote areas and children with specific health conditions and so on.

The inclusion of suggested definitions seeks to ensure that all legislators and policy makers understand equity in the context of health and the need for health to be considered in all public policy. Including these definitions in the Bill ensures there is no room to evade them.

HCCA recommends the adoption of the Bill as a matter of urgency.

¹ <https://www.hcca.org.au/publication/climate-change-and-health/>

²

https://d3n8a8pro7vhm.cloudfront.net/caha/pages/40/attachments/original/1498008324/CAHA_Framework_for_a_National_Strategy_on_Climate_Health_and_Well-being_v05_SCREEN_%28Full_Report%29.pdf?1498008324

³ <https://www.hcca.org.au/wp-content/uploads/2023/04/Final-Climate-Health-and-Wellbeing-Position-Statement-March-2023.pdf>
Accessed November 2023

⁴

https://d3n8a8pro7vhm.cloudfront.net/caha/pages/40/attachments/original/1498008324/CAHA_Framework_for_a_National_Strategy_on_Climate_Health_and_Well-being_v05_SCREEN_%28Full_Report%29.pdf?1498008324 Accessed November 2023

⁵ <https://www.hcca.org.au/wp-content/uploads/2023/04/Final-Climate-Health-and-Wellbeing-Position-Statement-March-2023.pdf>
Accessed November 2023

⁶

https://d3n8a8pro7vhm.cloudfront.net/caha/pages/40/attachments/original/1498008324/CAHA_Framework_for_a_National_Strategy_on_Climate_Health_and_Well-being_v05_SCREEN_%28Full_Report%29.pdf?1498008324

⁷ <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-health>

⁸ [UN General Assembly declares access to clean and healthy environment a universal human right | UN News](https://www.un.org/press/en/2021/09/210921.un.9777.doc.stories.html)

⁹ First reading pp.3-4 https://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/s1385_first-senate/toc_pdf/23S2120.pdf;fileType=application%2Fpdf

¹⁰ Constitution, World Health Organisation <https://www.who.int/about/accountability/governance/constitution>

¹¹ The Ottawa Charter for Health Promotion (1986) <https://www.who.int/teams/health-promotion/enhanced-wellbeing/first-global-conference>.

¹² Health promotion action means <https://www.who.int/teams/health-promotion/enhanced-wellbeing/first-global-conference/actions>

¹³ Social determinants of health (WHO) https://www.who.int/health-topics/social-determinants-of-health#tab=tab_1

¹⁴ Health equity in social determinants of health (WHO) https://www.who.int/health-topics/social-determinants-of-health#tab=tab_3

¹⁵ IPCC Sixth Assessment Report: impact, adaptation and vulnerability (2022). Chapter 8: Poverty, livelihoods and sustainable development. <https://www.ipcc.ch/report/ar6/wg2/chapter/chapter-8/>

¹⁶ <https://www.health.gov.au/about-us/what-we-do/legislation-we-administer>

¹⁷ <https://www.hcca.org.au/publication/national-health-and-climate-strategy/>