

# CLIMATE CHANGE AND THE LAW POLICY STATEMENT

## Introduction

1. This policy statement was prepared on the traditional lands of the Gadigal people of the Eora Nation. NSW Young Lawyers acknowledges that Indigenous people have traditionally cared for the land and remain at the forefront of advocacy for climate justice.
2. NSW Young Lawyers is the largest body of young and newly practising lawyers (solicitors and barristers) and law students, in Australia with over 15,000 members. Each lawyer under 36 years of age and/or in their first five years of practice, and each law student, within NSW is a Member of NSW Young Lawyers.
3. NSW Young Lawyers Members represent a significant proportion of the legal profession in NSW. This policy statement is made by the NSW Young Lawyers organisation. It does not reflect the views of The Law Society of New South Wales.

## Climate change science must be taken seriously

4. NSW Young Lawyers accepts the science and wide-ranging effects of climate change, including as outlined by the United Nations Intergovernmental Panel on Climate Change (IPCC) in its leading expert reports. In 2018, the IPCC published its special report outlining that “Climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth are projected to increase with global warming of 1.5°C and increase further with 2°C.”<sup>1</sup> The IPCC stated “that limiting global warming to 1.5°C would require “rapid and far-reaching” transitions in land, energy, industry, buildings, transport, and cities. Global net human-caused emissions of carbon dioxide (CO<sub>2</sub>) would need to fall by approximately 45 percent from 2010 levels by 2030, reaching ‘net zero’ around 2050. This means that any remaining emissions would need to be balanced by removing CO<sub>2</sub> from the air.”<sup>2</sup>
5. Australia is a very high per capita emitter and exporter of CO<sub>2</sub> emissions that contribute to global warming.<sup>3</sup> NSW Young Lawyers considers that Australia has the ability and a responsibility to rapidly reduce emissions and actively help to keep the world’s emissions within its remaining “carbon budget”.

## Declaration of Climate Emergency

6. The Australian Medical Association recognises “climate change as a health emergency, with clear scientific evidence indicating severe impacts for our patients and communities now and into the future.”<sup>4</sup> More than 50 local governments in Australia, and the Australian Capital Territory, have declared a climate emergency.<sup>5</sup>
7. NSW Young Lawyers recognises that there is a climate emergency, posing an unprecedented challenge for human rights and the rule of law. In order for there to be intergenerational equity and climate justice, as well as interspecies equity and ecological sustainability, the law needs to enable and require Australia to rapidly decrease CO<sub>2</sub> (and other greenhouse gas) emissions and to be legally accountable for their adverse contributions to the impacts of climate change.

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1 Intergovernmental Panel on Climate Change, *Global Warming of 1.5°C* (2018) <<https://www.ipcc.ch/sr15>>; Intergovernmental Panel on Climate Change, *Headline Statements for Policymakers* (2018) <[https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15\\_Headline-statements.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Headline-statements.pdf)>.

2 Intergovernmental Panel on Climate Change, *Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C approved by governments* (2018) <<https://www.ipcc.ch/2018/10/08/summary-for-policymakers-of-ipcc-special-report-on-global-warming-of-1-5c-approved-by-governments/>>.

3 Keyword MD, Hibberd MF & Emmerson KM (2017). Australia state of the environment 2016: atmosphere, independent report to the Australian Government Minister for the Environment and Energy, Australian Government Department of the Environment and Energy, Canberra.

4 Australian Medical Association, “Climate Change is a Health Emergency” (3 September 2019) <<https://ama.com.au/ausmed/climate-change-health-emergency>>.

5 Climate Emergency Declaration, “Climate emergency declarations in 1087 jurisdictions and local governments cover 266 million citizens” (3 October 2019) <<https://climateemergencydeclaration.org/climate-emergency-declarations-cover-15-million-citizens/>>.

## **Climate change is a human rights emergency**

8. NSW Young Lawyers recognises that climate change is such a serious threat to human rights that climate change needs to be treated as a human rights emergency. The United Nations Human Rights Committee observes that climate change is one of “the most pressing and serious threats to the ability of present and future generations to enjoy the right to life”.<sup>6</sup> It emphasised that a broad range of human rights are impacted by climate change, including: “the right to life, the right to adequate food, the right to the enjoyment of the highest attainable standard of physical and mental health, the right to adequate housing, the right to self-determination, the rights to safe drinking water and sanitation, the right to work and the right to development”.<sup>7</sup> Australia agreed to be bound to protect the above human rights by becoming a state party to the *International Covenant on Civil and Political Rights (ICCPR)* the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* and other international instruments.
9. NSW Young Lawyers recognises climate change will have harsher consequences for marginalised people, for instance, Aboriginal and Torres Strait Islander people facing further displacement from country leading to loss of cultural links.

## **Effective implementation of climate change agreements**

10. NSW Young Lawyers recognises that the United Nations Framework Convention on Climate Change and the 2015 Paris Agreement are important international instruments governing cooperative climate change action by states parties. NSW Young Lawyers believes that Australia should be a leading advocate for climate justice at the global level. Australian diplomacy should play a constructive role in international negotiations. Constructive diplomacy should be backed by leadership in domestic policy on climate change, and by effective and legally enforceable implementation of international climate change agreements in domestic legislation.

## **Legal response to climate change**

11. NSW Young Lawyers acknowledges the need for a cohesive and overarching legal framework to adequately address the immediate and long term risks presented by climate change in New South Wales and Australia.<sup>8</sup> Laws in New South Wales and Australia should, as much as reasonably possible, seek to implement the principles of ecologically sustainable development and address climate risks by creating opportunities for mitigation and/or adaptation.

**1 November 2019**

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<sup>6</sup> United Nations Human Rights Committee, General Comment No. 36 (30 October 2018) <<https://tbinternet.ohchr.org/Treaties/>>.

<sup>7</sup> Ibid.

<sup>8</sup> Environmental Defenders Office NSW *Climate-ready planning laws for NSW: Rocky Hill and beyond* (March 2019).