

CLIMATE CHANGE BILL 2021
(BILL NO. 31 OF 2021)

CLAUSES

PART 1—PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Application
4. Objectives
5. Principles

PART 2—DECLARATION OF CLIMATE EMERGENCY

6. Declaration of climate emergency

PART 3—IMPLEMENTATION OF THE PARIS AGREEMENT

7. Implementation of the Paris Agreement
8. Preparation and implementation of Fiji's Nationally Determined Contributions

PART 4—GOVERNANCE

9. Powers of the Minister
10. Obligation to report on and review the implementation of this Act
11. Director of the Climate Change and International Cooperation Division
12. National Climate Change Coordination Committee
13. Focal points
14. Appointment of inspectors
15. Powers of authorised officers
16. Powers of authorised officers to enter and inspect
17. Improvement notices

PART 5—CLIMATE CHANGE OBLIGATIONS OF STATE ENTITIES

18. State entities must ensure consistency with objectives and principles of this Act
19. Decision-makers must promote and ensure consistency with climate objectives
20. Ministerial guidelines for actions and decisions
21. Integration of this Act within ministries
22. Environmental impact assessment
23. Government procurement
24. Ministerial portfolios, functions and human resourcing
25. Integration of climate change into curricula
26. National budget submissions

PART 6—DEVELOPMENT AND EVALUATION OF THE NATIONAL CLIMATE CHANGE POLICY

- 27. Development of the National Climate Change Policy
- 28. Review of the National Climate Change Policy

PART 7—MEASUREMENT, REPORTING AND VERIFICATION OF EMISSIONS AND EMISSIONS REDUCTIONS

- 29. Fijian GHG Inventory
- 30. Sector-based collection of data and information needed to estimate emissions and emissions reduction data
- 31. Mandatory reporting on bulk sale of fuels
- 32. Voluntary facility-level reporting on emissions and emissions reduction data
- 33. National inventory report

PART 8—RESEARCH, DATA COLLECTION, REPORTING AND COMMUNICATIONS

- 34. National climate change communications strategy
- 35. Collection of research from persons
- 36. Collection of research from organisations
- 37. Information Platform

PART 9—CLIMATE CHANGE MITIGATION

- 38. Long term emissions reduction target
- 39. Carbon budgeting
- 40. Form of carbon budgets
- 41. Matters for consideration in determining carbon budgets
- 42. Amending carbon budgets
- 43. Minister has the power to introduce and implement regulations, measures and actions
- 44. Transport Decarbonisation Implementation Strategy

PART 10—CARBON SEQUESTRATION PROPERTY RIGHTS AND EMISSIONS REDUCTION PROJECTS, PROGRAMMES AND ACTIVITIES

- 45. Carbon sequestration property rights
- 46. Registration of carbon sequestration property rights
- 47. Land over which a carbon sequestration property right is registered
- 48. REDD+ Policy
- 49. Fijian Emissions Reduction Methodologies
- 50. Fijian Emissions Reduction Projects, Programmes or Activities
- 51. Fijian Emissions Reduction Statement
- 52. Issue of Fijian Mitigation Outcome Units in respect of Fijian Emissions Reduction Projects, Programmes and Activities
- 53. Property in Fijian Mitigation Outcome Units
- 54. Requirement to cancel Fijian Mitigation Outcome Units where there has been a reversal of sequestration

55. Registration and conduct of emissions reduction projects, programmes and activities under approved international emissions reduction standards
56. Conversion of emission reduction units generated in Fiji under international emissions reduction standards to Fijian Mitigation Outcome Units
57. Emissions reduction projects, programmes and activities for the purposes of Article 6 of the Paris Agreement
58. International transfer of Fijian Mitigation Outcome Units
59. Emissions reduction projects, programmes or activities that are not designed to generate emissions reduction units
60. Transactions under international REDD+ programmes
61. Fijian Registry
62. Information-gathering powers
63. Audits
64. Fraudulent conduct

PART 11 – CLIMATE CHANGE ADAPTATION AND RESILIENT DEVELOPMENT

65. Climate change is a threat to the rights and freedom of Fijians
66. National Adaptation Plan Steering Committee
67. National Adaptation Plan
68. Minister has the power to introduce and implement regulations, policies, measures, adaptation planning processes and actions
69. Integrated risk scenarios
70. Audit of public infrastructure and physical assets
71. Climate resilient buildings and infrastructure
72. National Building Code
73. Fijian Adaptation Registry
74. Voluntary reporting on adaptation projects

PART 12 – CLIMATE DISPLACEMENT AND RELOCATION

75. Fijian Taskforce on the Relocation and Displacement of Communities Vulnerable to the Impacts of Climate Change
76. Fijian Planned Relocation Guidelines
77. Relocation of at-risk communities
78. Trust Fund for the Planned Relocation of Communities in Fiji that are adversely affected by climate change

PART 13 – OCEANS AND CLIMATE CHANGE

79. Healthy oceans for a healthy climate
80. Permanence of Fiji's maritime boundaries and maritime zones
81. Ocean sustainability targets
82. National Ocean Policy Steering Committee
83. National Ocean Policy
84. Minister has the power to introduce and implement regulations, policies, measures and actions

- 85. Mitigation potential of oceans
- 86. Minister may direct Fiji Meteorological Service or any State entity to prepare studies

PART 14—SUSTAINABLE FINANCING

- 87. Powers of the Minister responsible for finance
- 88. Incentives for the promotion of climate change initiatives
- 89. Accredited climate finance organisations
- 90. Mechanisms for climate finance
- 91. National climate finance strategies

PART 15—PRIVATE SECTOR TRANSITION AND ENGAGEMENT

- 92. Private sector advisory committee
- 93. Guidance and adopting best practice
- 94. Directors must consider and evaluate climate change risks and opportunities
- 95. Fiji National Provident Fund Board must consider and evaluate climate change risks and opportunities
- 96. Disclosure of financial risks of climate change and measures adopted to reduce them by companies and managed investment schemes
- 97. Disclosure of financial risks of climate change and measures adopted to reduce them by the Fiji National Provident Fund Board
- 98. Disclosure of financial risks of climate change and measures adopted to reduce them by licensed financial institutions
- 99. Disclosure of financial risks of climate change and measures adopted to reduce them by the Reserve Bank
- 100. Application to entities that also carry on business in foreign jurisdictions

PART 16—ENFORCEMENT

- 101. Limitation period for offences
- 102. Other offences
- 103. General penalties
- 104. Enforcement of this Act by third parties
- 105. Other orders
- 106. Employees protection
- 107. Civil claims and damages
- 108. Liability of companies and directors
- 109. Priority of penalty or damages in cases of bankruptcy

PART 17—MISCELLANEOUS

- 110. Act to prevail
- 111. Regulations
- 112. Consequential amendments

SCHEDULE 1 – LIST OF PRESCRIBED LAWS

SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

BILL NO. 31 OF 2021**A BILL**

FOR AN ACT TO ESTABLISH A COMPREHENSIVE RESPONSE TO CLIMATE CHANGE, TO PROVIDE FOR THE REGULATION AND GOVERNANCE OF THE NATIONAL RESPONSE TO CLIMATE CHANGE, TO INTRODUCE A SYSTEM FOR THE MEASUREMENT, REPORTING AND VERIFICATION OF GREENHOUSE GAS EMISSIONS AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

- 1.—**(1) This Act may be cited as the Climate Change Act 2021.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

- 2.** In this Act, unless the context otherwise requires—

“adaptation” means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities;

- “adaptation communication” means the communication periodically submitted and updated in accordance with Article 7(10) of the Paris Agreement, which may include Fiji’s adaptation priorities, implementation and support needs, plans and actions;
- “adaptation project” means a project in Fiji that contributes towards adaptation objectives in this Act and the National Adaptation Plan;
- “Adaptation Registry” means the Fijian Adaptation Registry established under section 73(1);
- “anthropogenic emissions” means emissions of greenhouse gases that are attributable to human activity;
- “anthropogenic removal” means the withdrawal of greenhouse gases from the atmosphere as a result of deliberate human activity;
- “approved international emissions reduction standard” means the Verified Carbon Standard, the Gold Standard or any other standard declared to be an approved international emissions reduction standard by regulations made under this Act;
- “archipelagic waters” has the meaning given in Article 49 of UNCLOS;
- “associated entity” has the meaning given in section 2(1) of the Financial Management Act 2004;
- “at-risk community” means a community that is acutely exposed and vulnerable to the adverse impacts of climate change, including sudden and slow-onset climatic events and processes;
- “authorised officer” means a person appointed as an authorised officer under section 9(2) and includes inspectors appointed under section 14(1);
- “baseline” means a level of emissions that serves as a reference level for determining the amount of emissions reductions achieved by an emission reduction project, programme or activity;
- “biogeochemical” means the cycle in which chemical elements and simple substances are transferred between living systems and the environment, including the carbon cycle and atmospheric CO₂ concentration;
- “biogeophysical” means the composite of biological, geological, and physical processes operating in an area such as physical properties of the land surface, such as albedo, roughness, and evapotranspiration;
- “blue carbon” means the carbon sequestered by coastal and marine ecosystems and stored in the form of biomass and sediments, including mangroves, salt marshes and sea grasses;

- “budget coding and tracking system” means a system dedicated to tracking and reporting on climate change related expenditure in Fiji which uses national budget codes to isolate climate-relevant expenditure;
- “cancel” or “cancellation”, in relation to an emissions reduction unit, means the cancellation of that unit from a Registry account or a foreign account;
- “carbon dioxide equivalent” means, in relation to an amount of greenhouse gas, the amount of the gas multiplied by the global warming potential of that greenhouse gas as prescribed by regulations;
- “carbon sequestration” means the process of removing carbon from the atmosphere and storing it, including in soil and vegetation other than harvested wood products or other vegetation that has been harvested, lopped or felled;
- “carbon sequestration property right” has the meaning given in section 45;
- “carbon stocks” means the amount of carbon that is stored in living biomass, dead organic matter, soil or sediment but does not include harvested wood products or other vegetation that has been harvested, lopped or felled;
- “climate change” means a change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;
- “climate displacement” means the displacement of people as a result of the direct or indirect impacts of climate change, including sudden and slow-onset climatic events and processes occurring either alone or in combination with other economic, social and political factors;
- “climate finance” means money available for or mobilised by State or non-State entities to finance climate change mitigation and adaptation programmes, actions and interventions;
- “climate resilience” means the capability of communities, the built environment and ecosystems to respond to, withstand and recover from the adverse impacts of climate change;
- “CMA” means the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement;
- “Committee” means the National Climate Change Coordination Committee established under section 12;
- “company” has the meaning given in section 3 of the Companies Act 2015;
- “competitive neutrality” means that State-owned commercial entities and private businesses compete on a level playing field;

- “Conference of the Parties” means the Conference of the Parties to the Convention;
- “Conservator of Forests” means the conservator of forests appointed under section 3 of the Forest Act 1992;
- “Constitution” means the Constitution of the Republic of Fiji;
- “constitutional body” means a body created or continued under the Constitution;
- “contiguous zone” has the meaning given in Article 33 of UNCLOS;
- “continental shelf” has the meaning given in Article 76 of UNCLOS;
- “Convention” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992 and as subsequently adjusted and amended;
- “conversion statement” means a statement issued in accordance with section 56(6);
- “Court” means the High Court of Fiji;
- “crediting period” means the period of time that is specified in an emissions reductions methodology, regulations made under this Act or a declaration made in accordance with section 50 during which an emissions reduction project, programme or activity can generate emissions reduction units;
- “Director” means the Director of the Climate Change and International Cooperation Division appointed under section 11;
- “Division” means the Climate Change and International Cooperation Division;
- “double counting” means the counting of a single emission reduction more than once towards achieving climate change mitigation by entities or jurisdictions;
- “ECAL” means the Environment and Climate Adaptation Levy imposed under the Environment and Climate Adaptation Levy Act 2015;
- “emissions” means the release of greenhouse gases or their precursors into the atmosphere over a specified area and period of time and includes for the purposes of measurement, reporting and verification Scope 1, Scope 2 and Scope 3 emissions;
- “emissions reduction” means—
- (a) the anthropogenic removal or sequestration of one or more greenhouse gases from the atmosphere; or
 - (b) the avoidance or reduction of emissions of one or more greenhouse gases;

- “emissions reduction activity” means an activity that is intended to generate verified emissions reductions;
- “emissions reduction methodology” means the scientific approach and method that provides the basis upon which different types of emissions reduction projects, programmes and activities are developed and emission reductions estimated;
- “emissions reduction programme” means a programme that is intended to generate verified emissions reductions;
- “emissions reduction project” means a project that is intended to generate verified emissions reductions;
- “emissions reduction standard” means a standard or scheme under which emissions reduction programmes, projects and activities can be registered and generate verified emissions reductions and for which emissions reduction units are issued;
- “emissions reduction unit” means a tradable certificate or permit that represents one tonne of carbon dioxide equivalent verified emissions reductions;
- “energy consumption” means the amount and energy content of each energy type that an entity consumes;
- “energy production” means the amount and energy content of each energy type that an entity produces;
- “exclusive economic zone” has the meaning given in Article 57 of UNCLOS;
- “facility” means an activity or a series of activities that involve the release of greenhouse gas emissions, the production of energy or the consumption of energy and that form a single undertaking or enterprise;
- “Fiji National Provident Fund Board” means the board continued in existence by section 5 of the Fiji National Provident Fund Act 2011;
- “Fijian Emissions Reduction Activity” means an emissions reduction activity that has been declared a Fijian Emissions Reduction Activity by the Director under section 50;
- “Fijian Emissions Reduction Methodology” means an emissions reduction methodology approved in accordance with section 49;
- “Fijian Emissions Reduction Programme” means an emissions reduction programme that has been declared a Fijian Emissions Reduction Programme by the Director under section 50;
- “Fijian Emissions Reduction Project” means an emissions reduction project that has been declared a Fijian Emissions Reduction Project by the Director under section 50;

- “Fijian Emissions Reduction Statement” means a statement issued in accordance with section 51;
- “Fijian GHG Inventory” means the Fijian GHG Inventory established under section 29;
- “Fijian Mitigation Outcome Unit” means an emissions reduction unit issued in accordance with this Act and having a unique serial number;
- “Fijian Planned Relocation Guidelines” means guidelines prepared in accordance with section 76;
- “Fijian Taskforce on Relocation and Displacement” means the Fijian Taskforce on the Relocation and Displacement of Communities Vulnerable to the Impacts of Climate Change established under section 75(1);
- “Fijian Taskforce on Relocation and Displacement’s Terms of Reference” means the Fijian Taskforce on Relocation and Displacement’s Terms of Reference set out in Annex 3 of the Fijian Planned Relocation Guidelines and as amended from time to time;
- “focal point” means a focal point appointed by a permanent secretary in accordance with section 13;
- “foreign account” means an account kept within a registry that is located in or relates to a foreign country or group of countries and includes an account in any foreign registry established for the purposes of the Paris Agreement, the Verified Carbon Standard and the Gold Standard;
- “foreign emissions trading scheme” means a mandatory or voluntary regional, national, State or provincial law, scheme, programme, fund, facility, system, initiative or other framework in a jurisdiction other than Fiji under which verified emissions reductions are created and traded;
- “forest” includes—
- (a) land spanning more than 0.5 hectares with trees higher than 5 metres and a canopy cover of more than 10 %, or trees able to reach these thresholds *in situ*;
 - (b) areas with bamboo and forest palms provided that the height and canopy cover criteria in paragraph (a) are met;
 - (c) forest road, fire breaks and other small open areas;
 - (d) areas defined by both the presence of trees and the absence of other predominant land uses; and
 - (e) mangrove forest,
- but excludes tree stands in agricultural production systems;

- “forest biomass” means all organic matter in a forest, such as leaves, branches, trunks, roots, litter, and soil organic matter, irrespective if dead or alive;
- “global stocktake” means the global stocktake carried out in accordance with Article 14 of the Paris Agreement;
- “Government company” has the meaning given in section 2 of the Financial Management Act 2004;
- “greenhouse gas” or “GHG” means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF₆) and nitrogen trifluoride (NF₃);
- “holding” means, in relation to an emissions reduction unit, the holding of that unit in a Registry account or a foreign account;
- “Information Platform” means the information platform established in accordance with section 37;
- “inspector” means an inspector appointed in accordance with section 18 of the Environment Management Act 2005;
- “integrated risk scenarios” means scenarios that model physical climate change impacts and their potential socio-economic implications alongside other projected risks;
- “internal waters” has the meaning given in Article 8 of UNCLOS;
- “IPCC” means the Intergovernmental Panel on Climate Change;
- “issuance” means, in relation to an emissions reduction unit, the issue of an emissions reduction unit in accordance with an emissions reduction standard;
- “iTaukei land” has the meaning given in section 2 of the iTaukei Lands Act 1905;
- “iTaukei Land Trust Board” means the iTaukei Land Trust Board established under section 3 of the iTaukei Land Trust Act 1940;
- “iTaukei owners” has the meaning given to that term in section 2 of the iTaukei Land Trust Act 1940;
- “ITMO” means an internationally transferred mitigation outcome, which is an emissions reduction developed in accordance with Article 6 of the Paris Agreement and includes—
- (a) Fijian Mitigation Outcome Units transferred internationally in accordance with section 58; and
 - (b) emissions reductions generated outside of Fiji and approved for international transfer to the Government or entities operating within Fiji in accordance with this Act and regulations made under this Act;

“Kyoto Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change adopted on 11 December 1997 and as subsequently adjusted and amended;

“landowner” means—

- (a) in the case of State land, the State represented by the Director of Lands;
- (b) in the case of freehold land, the registered proprietor of the freehold land;
- (c) in the case of iTaukei land, the registered iTaukei landowner;
- (d) in the case of Rotuman land, the owner of the land in accordance with the Rotuma Lands Act 1959; or
- (e) in the case of land on Rabi Island, the owner of the land in accordance with the Banaban Lands Act 1965;

“long term emissions reduction target” has the meaning given in section 38;

“long term ocean sustainability target” has the meaning given in section 81(1);

“Low Emission Development Strategy” or “LEDS” means Fiji’s Low Emission Development Strategy 2018-2050 as updated from time to time;

“managed investment scheme” has the meaning given in section 3 of the Companies Act 2015;

“mangrove forest” means a forest type predominantly made up of tree and shrub species that grow in saline and tidal tropical and subtropical coastal habitats;

“Minister” means the Minister responsible for climate change;

“ministry” or “department” means a ministry or department of the civil service for the management of which a person is responsible under section 127 of the Constitution, whether the ministry or department is titled or referred to as a ministry, department or office or in some other way;

“mitigation” means efforts that seek to prevent or slow down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

“Montreal Protocol” means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended;

“National Adaptation Plan” or “NAP” means a plan prepared in accordance with section 67;

“National Adaptation Plan Steering Committee” or “NAP Steering Committee” means the steering committee established under section 66;

- “NAP Steering Committee Terms of Reference” means the NAP Steering Committee Terms of Reference published by the Ministry responsible for finance in January 2018 and as amended from time to time;
- “National Building Code” means the National Building Code 1990 set out in the schedule to the Public Health (National Building Code) Regulations 2004;
- “National Climate Change Policy” or “NCCP” means a policy prepared in accordance with section 27;
- “National Development Plan” means Fiji’s National Development Plan as amended or replaced from time to time;
- “National Environment Council” means the National Environment Council established under section 7 of the Environment Management Act 2005;
- “national inventory report” means the report of anthropogenic emissions by sources and anthropogenic removals by sinks of greenhouse gases required under Article 13, paragraph 7(a) of the Paris Agreement;
- “National Ocean Policy Steering Committee” means the steering committee established under section 82(1);
- “Nationally Determined Contribution” or “NDC” means the efforts by Fiji to address climate change communicated in accordance with Article 4 of the Paris Agreement;
- “non-biodegradable material” means a type of material that air, sunlight, water, and ground soil cannot break down;
- “non-eco-friendly material” means a type of material that is not earth-friendly or that is harmful to the environment;
- “National Ocean Policy” or “NOP” means the National Ocean Policy prepared in accordance with section 83;
- “Paris Agreement” means the Paris Agreement to the United Nations Framework Convention on Climate Change adopted on 12 December 2015 and which entered into force on 4 November 2016 as may be adjusted or amended from time to time, as further elaborated on by relevant decisions of the Conference of the Parties and the CMA;
- “permanence period” means the period specified in a Fijian Emissions Reduction Methodology for which carbon sequestered in accordance with the methodology must remain sequestered to be considered a permanent emissions reduction, or as otherwise may be prescribed by regulations made under this Act;
- “person” includes any individual, State entity, company or association or body of persons, corporate or unincorporated;

- “planned relocation” means the action undertaken to permanently relocate or resettle a community or group;
- “proponent”, in relation to an emissions reduction project, programme or activity, means the person who—
- (a) is responsible for carrying out the project, programme or activity; and
 - (b) has the legal right to carry out the project, programme or activity;
- “protection order” means an order made by the Director that is designed to prevent losses of sequestered carbon;
- “qualifying member” in relation to an iTaukei landowner means a member of the land owning unit as verified by the iTaukei Land Commission, who permanently resides in Fiji and is over the age of 18 years;
- “REDD+” means reducing emissions from deforestation and forest degradation in developing countries and the conservation of forest carbon stocks, sustainable management of forests and enhancement of forest carbon stocks as established under decision 1/CP.16 and all associated decisions of the Conference of the Parties;
- “Register of State Leases” means the Register of State Leases kept by the Registrar of Titles under section 12 of the State Lands Act 1945;
- “registered holder” means, in relation to an emissions reduction unit, the person in whose Registry account or foreign account there is an entry for the unit;
- “Registry” means the Fijian Registry established under section 61;
- “Registry account” means an account identified in accordance with section 61(6) and kept in accordance with regulations made under this Act;
- “renewable energy” means energy that is produced by renewable resources, including solar energy, wind energy, biomass, tidal energy, wave energy, geothermal energy and hydropower;
- “reporting period” means the period of time that is specified in an emissions reductions methodology or regulations made under this Act to be the reporting period for an emissions reduction project, programme or activity;
- “research” means any study, investigation, inquiry, scientific analysis or similar activity into any matter relating to climate change which may assist with the implementation of this Act;
- “research findings” includes the analysis, conclusions and data associated with any research;
- “Reserve Bank” means the Reserve Bank of Fiji established under section 3 of the Reserve Bank of Fiji Act 1983;

- “reversal” means the reversal of emissions reductions;
- “scope 1 emissions” means the emissions released to the atmosphere as a direct result of an activity, or series of activities at a facility level;
- “scope 2 emissions” means the emissions released to the atmosphere from the indirect consumption of an energy commodity;
- “scope 3 emissions” means the emissions other than scope 2 emissions that are generated in the wider economy, and that occur as a consequence of the activities of a facility but from sources not owned or controlled by that facility’s business;
- “sink” means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere;
- “source” means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere;
- “State entity” means a ministry, department, constitutional body, statutory authority, Government company or associated entity;
- “State land” has the meaning given in section 2 of the State Lands Act 1945;
- “statutory authority” has the meaning given in section 2 of the Financial Management Act 2004;
- “sustainable development” means development that meets the needs of the present without compromising the ability of future generations to meet their own needs and includes achieving the following principles and ideals of sustainable development—
- (a) the precautionary principle—where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to anticipate, prevent or minimise the causes of climate change and mitigate its effects, taking into account that such measures should be cost-effective;
 - (b) the principle of intergenerational equity—the wellbeing of current and future generations is supported and protected by a socially inclusive, equitable, environmentally sustainable, net zero emissions economy and the health, diversity and productivity of the environment is protected and enhanced for the benefit of future generations;
 - (c) the conservation of communities, infrastructure, biological diversity and ecological integrity should be a fundamental consideration in decision-making;
 - (d) decision-making processes should effectively integrate both long-term and short-term environmental, economic, social and equitable considerations; and

(e) improved valuation, pricing and incentive mechanisms including the polluter pays principle should be promoted;

“Sustainable Development Goals” or “SDGs” means the United Nations Sustainable Development Goals adopted in Resolution 70/1 of the United Nations General Assembly for the year 2030, and any subsequent sustainable development goals agreed by the United Nations to replace the existing goals;

“Suva Declaration on Climate Change” means the Suva Declaration on Climate Change approved at the Third Pacific Islands Development Forum Summit of Leaders;

“*Talanoa*” means the process of inclusive, participatory and transparent dialogue with the purpose of sharing stories, building empathy and making wise decisions for the collective good;

“territorial seas” has the meaning given in Article 3 of UNCLOS;

“transfer” means, in relation to an emissions reduction unit, the transfer of a unit from one Registry account or foreign account to another Registry account or foreign account;

“UNCLOS” means the United Nations Convention on the Law of the Sea 1982;

“UNFCCC Secretariat” means the secretariat established under Article 8 of the Convention and serving as the secretariat of the Kyoto Protocol and the Paris Agreement;

“verified emissions reduction” means an emissions reduction that has been verified in accordance with an emissions reduction standard;

“verification report” means a report, prepared by an independent auditor who is certified under an emissions reduction standard, that verifies that a quantity of emission reductions have been generated by an emissions reduction project, programme or activity that is registered under that emissions reduction standard;

“vulnerability” means the degree to which a system is susceptible or unable to withstand the adverse effects of climate change, including climate variability and extreme phenomena; and

“2030 marine protected area target” has the meaning given in section 81(2).

Application

3.—(1) This Act binds the State.

(2) This Act applies to all things done in, on, above or below Fiji’s land and airspace, including its internal waters, territorial seas, archipelagic waters, the contiguous zone, exclusive economic zone, continental shelf and the seabed and subsoil underlying those waters.

(3) Emissions from international aviation or international shipping are not emissions from sources in Fiji for the purposes of this Act.

Objectives

4. The objectives of this Act are to—

- (a) provide a framework by which Fiji can develop and implement clear and long term climate change measures and policies that will safeguard the future of Fiji and its people, ecosystems and biodiversity in the face of the climate emergency;
- (b) enable Fiji to meet its international obligations under the Convention and the Paris Agreement and to implement Fiji's NDC;
- (c) facilitate the achievement of regional commitments and aspirations relating to climate change including the Suva Declaration on Climate Change;
- (d) establish institutional and governance structures for the implementation of this Act;
- (e) facilitate the evidence-based consideration of climate change issues in specified areas of government and private sector decision-making;
- (f) integrate the consideration of climate change projections, articulation of risk reduction responsibilities and formulation of resilience-building objectives across all sector plans and strategies;
- (g) provide for the development, implementation and review of the NCCP, NAP, National Ocean Policy and any other climate change policies;
- (h) establish a transparent framework for the monitoring, reporting and verification of anthropogenic emissions by sources and anthropogenic removals by sinks of greenhouse gases;
- (i) enhance government transparency and enable informed private and civil sector decision-making and risk management through the establishment of data management systems and the publicly accessible Information Platform that contains data relating to Fiji's greenhouse gas emissions, climate change projections and vulnerability;
- (j) set a long term emissions reduction target and carbon budgets, and reduce Fiji's greenhouse gas emissions consistently with the aim of achieving each carbon budget and the long term emissions reduction target;
- (k) provide for a strategic response to the climate emergency through the implementation, operation and administration of regulations, measures and actions that aim to reduce Fiji's greenhouse gas emissions;
- (l) provide for the development of emissions reduction projects, programmes and activities and facilitate access to international carbon markets;

- (m) provide for the implementation, operation and administration of regulations, measures and actions that build climate resilience and enhance adaptive capacity to the impacts of climate change, with respect to Fiji's communities, built environment and ecosystems;
- (n) provide for the relocation of at-risk communities and safeguard their rights;
- (o) ensure that climate-related policies and measures adequately integrate consideration of oceans through safeguarding and enhancing the ability of oceans to respond to the adverse impacts of climate change and taking advantage of the mitigation potential of oceans;
- (p) safeguard Fiji's national security and sovereignty including with respect to Fiji's sovereignty over its maritime zones such as internal waters, archipelagic waters, territorial seas, contiguous zone and exclusive economic zone within the meaning of UNCLOS and in the alignment with the Declaration on Preserving Maritime Zones in the Face of Climate Change Related Sea Level Rise;
- (q) establish a framework for securing nationally and internationally derived finance for the implementation of this Act; and
- (r) require companies, managed investment schemes, the Fiji National Provident Fund Board, licensed financial institutions and the Reserve Bank to disclose the financial risks that climate change presents to their businesses and measures adopted to reduce these risks, and require company directors and the Fiji National Provident Fund Board to consider climate change risks to the extent that they present foreseeable opportunities or risks to the entity.

Principles

5. This Act must be implemented in accordance with the following principles—

- (a) when taking action to address climate change, Fiji will respect, promote and consider the rights and freedoms recognised in Chapter 2 of the Constitution;
- (b) that Fiji and the Earth are facing a climate emergency that requires a rapid and ambitious transformation towards a net zero emissions global economy;
- (c) the principle of intergenerational equity, in which the wellbeing of current and future generations is supported and protected by a socially and gender inclusive, equitable, environmentally sustainable, net zero emissions economy and the health, diversity and productivity of the environment is protected and enhanced for the benefit of current and future generations;

- (d) the precautionary principle and the taking of precautionary measures to anticipate, prevent or minimise the causes of climate change and mitigate its effects, and where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective;
- (e) that sustainable development, including the importance of achieving a sustainable, prosperous and peaceful future through the implementation of the Sustainable Development Goals, the Sendai Framework for Disaster Risk Reduction and the Addis Ababa Action Agenda, and also that domestic policies and measures to protect the climate system against anthropogenic climate change should be appropriate for Fiji's specific conditions and integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change;
- (f) that climate change, and actions to address climate change, may have adverse effects on the workforce and people's livelihoods, and Fiji will take steps to avoid or mitigate any such loss of income or livelihoods, and promote a just transition of the workforce and the creation of decent work and quality jobs in accordance with Fiji's development priorities;
- (g) the principle of common but differentiated responsibilities and capabilities in light of Fiji's national circumstances, in particular that Fiji is a small island developing State that is highly vulnerable to the impacts of climate change and makes a very small contribution to global greenhouse gas levels;
- (h) the importance of averting, minimising and addressing loss and damage associated with the adverse effects of climate change in light of Fiji's national circumstances as a small island developing State that is highly vulnerable to the impacts of climate change;
- (i) there are inextricable links between gender equity, social inclusion and the Sustainable Development Goals including the pledge that no one will be left behind, and when taking action to address climate change, Fiji will respect, promote and consider the Sustainable Development Goals, gender equality and responsiveness, women's human rights and the empowerment of women, rights of people living with disabilities and disability inclusive approaches, the elderly, children's inalienable right to a healthy environment, youth, and vulnerable and marginalised groups and communities, including in the areas of formal sector employment and livelihoods, participation in decision-making and access to services, health, education, water, sanitation, housing and transport;

- (j) when taking action to address climate change, Fiji must take into consideration the impacts on competitive neutrality;
- (k) recognising indigenous people or the iTaukei and the Rotumans from the island of Rotuma, their respective ownership of iTaukei lands and Rotuman lands, and their unique cultures, customs, traditions and languages;
- (l) oceans are both critical to the identity and livelihoods of Fijians and the Pacific island peoples and play an important role in climate change adaptation and mitigation and healthy oceans are necessary to delivering a healthy climate - oceans must be protected through urgent and ambitious action on climate change and the reduction of other anthropogenic stressors such as plastics pollution and other forms of pollution and waste; and
- (m) climate change remains the single greatest threat to the livelihoods, security and wellbeing of the peoples of Fiji and the Pacific, and therefore enhancing Fiji's engagement in the UNFCCC process in the spirit of *Talanoa* and progressing the implementation of the Paris Agreement and the Boe Declaration on Regional Security with urgency is critical to safeguarding Fiji's national security and sovereignty.

PART 2—DECLARATION OF CLIMATE EMERGENCY

Declaration of climate emergency

6.—(1) This Act recognises and declares that Fiji and the Earth are facing a climate emergency.

(2) This Act is a response to the current and future risks of climate change, informed by the best available science published by the IPCC to date, which emphasises the urgent need to limit global average temperature increase to 1.5°C above pre-industrial levels.

(3) Fiji is already experiencing, and will continue to experience, the impacts of the climate emergency, including increasingly volatile and extreme weather events, sea-level rise and increasing susceptibility to food and water-borne diseases, which—

- (a) is already having and will continue to have a devastating impact on food production, water availability, public health, infrastructure, communities and the economy, and
- (b) has already forced and will continue to force communities to relocate to higher ground.

(4) Fiji is particularly vulnerable to the climate emergency and there is an urgent need to enhance the climate resilience of Fiji's economy, natural and built environment, and people.

(5) A rapid and ambitious transformation to a net zero emissions global economy is necessary to address and mitigate the climate emergency, and Fiji will contribute to this transformation by achieving net zero greenhouse gas emissions by 2050.

(6) The purpose of this Act is to set out a detailed framework for a whole of government approach to addressing the climate emergency in Fiji.

PART 3—IMPLEMENTATION OF THE PARIS AGREEMENT

Implementation of the Paris Agreement

7.—(1) The purpose of this Part is to give full effect to Fiji’s obligations under the Paris Agreement.

(2) The Minister must, in consultation with the Committee and in accordance with the Paris Agreement, noting the flexibility afforded to Fiji as a small island developing State, take all reasonable steps to—

- (a) prepare, communicate and maintain successive NDCs that the Minister intends Fiji to achieve;
- (b) pursue domestic mitigation measures, with the aim of achieving the objectives of Fiji’s NDC;
- (c) be informed by the global stocktake, communicate a NDC every 5 years which represents a progression beyond Fiji’s then current NDC and reflects Fiji’s highest possible ambition, reflecting its common but differentiated responsibilities and capabilities in light of its national circumstances;
- (d) in communicating Fiji’s NDC, provide the information necessary for clarity, transparency and understanding;
- (e) in communicating Fiji’s NDC, adhere to any common time frames agreed to by the CMA;
- (f) account for Fiji’s NDC, and in accounting for anthropogenic emissions by sources and anthropogenic removals by sinks of greenhouse gases corresponding to Fiji’s NDC, promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting;
- (g) as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies or contributions;
- (h) provide the following information—
 - (i) a national inventory report of anthropogenic emissions by sources and anthropogenic removals by sinks of greenhouse gases, prepared using good practice guidelines and methodologies accepted by the IPCC and agreed upon by the CMA; and
 - (ii) information necessary to track progress made in implementing and achieving its NDC.

(3) The Minister may, with the assistance of the Director and in accordance with the Paris Agreement, submit and update periodically an adaptation communication or a NAP, which may include Fiji's adaptation priorities, implementation and support needs, plans and actions.

Preparation and implementation of Fiji's Nationally Determined Contributions

8.—(1) All ministers must, where relevant and with the assistance of the Committee, take all reasonable steps within their portfolio to promote the achievement of any sectoral emissions reduction or limitation targets in Fiji's NDC.

(2) The Minister must, when preparing successive NDCs in consultation with the Committee, consider—

- (a) the National Development Plan, NCCP, LEDS, NAP, National Ocean Policy and any other relevant policies;
- (b) the long term emissions reduction target and carbon budgets;
- (c) national inventory reports; and
- (d) statements of Fiji's greenhouse gas emissions over the 5-year period, progress towards achieving Fiji's NDC and progress towards achieving the long term emissions reduction target with reference to the carbon budgets made in accordance with Part 9.

PART 4—GOVERNANCE

Powers of the Minister

9.—(1) The Minister has the power to—

- (a) oversee the implementation of and promote compliance with this Act, including by—
 - (i) taking all reasonable steps to ensure Fiji complies with the Paris Agreement;
 - (ii) formulating, implementing and reviewing Fiji's national climate change policies and guidelines; and
 - (iii) formulating, implementing and reviewing measures and actions, including economic, fiscal, financial and market-based instruments as required, on climate change mitigation, adaptation, climate displacement, planned relocation and oceans in accordance with this Act, the Paris Agreement, and other international treaties that Fiji has ratified relating to climate change;
- (b) implement measures to encourage scientific and technological research, the development, transfer and deployment of technologies, equipment and processes for climate change mitigation and adaptation that are centred around the needs of end-users, with particular regard to marginalised and disadvantaged people;

- (c) convene other ministries to support national efforts to mainstream climate change mitigation, adaptation, climate displacement and planned relocation into development planning, decision-making and policy;
 - (d) appoint experts and establish an independent advisory board to assist with providing advice in relation to any aspect of the implementation of this Act;
 - (e) establish procedures for and hold public consultations on matters relating to the implementation of this Act;
 - (f) draft and propose budget provisions for the implementation of this Act; and
 - (g) perform any other functions that are necessary to fulfil the objectives of this Act and respond to climate change.
- (2) The Minister may, by written instrument, appoint a person or a class of persons, to be an authorised officer or authorised officers for the purpose of—
- (a) the exercise by that person or those persons of the powers of an authorised officer under this Act or of such of those powers as are specified in the instrument; or
 - (b) the performance by that person or those persons of the functions of an authorised officer under this Act or of such of those functions as are specified in the instrument.
- (3) Without limiting subsection (2), the Minister may, by written instrument, appoint suitably skilled officers or inspectors appointed under the Local Government Act 1972 to be authorised officers under this Act.

(4) The Minister may, in consultation with the relevant minister, develop standards and codes of practice as required to accelerate Fiji's response to climate change in accordance with the objectives and principles of this Act, Fiji's current NDC and other relevant legislative and policy instruments.

Obligation to report on and review the implementation of this Act

10.—(1) The Minister must review the implementation of this Act every 5 years, including with regard to progress made towards achieving the objectives and principles of this Act, and report to Parliament on the findings of the review.

(2) The Minister must establish effectiveness and performance indicators that are gender, age and disability sensitive and, where possible, disaggregated to facilitate the evaluation of the results of the implementation of this Act.

(3) When reviewing the implementation of this Act, the Minister must consult—

- (a) all ministers with powers or duties under this Act, including the ministers responsible for the economy, forests, lands, the environment, education, fisheries and local government;

- (b) the Minister responsible for women on the extent to which gender principles are adhered to in all aspects of implementation; and
- (c) the Committee.

(4) The Minister must report annually to Parliament on the status of implementation of international and national obligations to respond to climate change and progress towards the attainment of net zero emissions and climate resilient development.

Director of the Climate Change and International Cooperation Division

11.—(1) The Minister must ~~appoint~~ **ensure that** the Director of the Climate Change and International Cooperation Division **is appointed**.

(2) The Director has the following functions—

- (a) to assist the Minister with the implementation and enforcement of this Act;
- (b) to prepare reports as required under this Act, the Convention and the Paris Agreement;
- (c) to develop and maintain the Information Platform and the Adaptation Registry;
- (d) to assess and determine applications for—
 - (i) approval to carry out emissions reduction projects, programmes and activities developed in accordance with emissions reduction methodologies;
 - (ii) the issuance of Fijian Mitigation Outcome Units generated by approved projects, programmes and activities; and
 - (iii) the international transfer of Fijian Mitigation Outcome Units in accordance with the Paris Agreement and other market mechanisms;
- (e) to develop, coordinate and facilitate policies, guidelines and standards for the international transfer of Fijian Mitigation Outcome Units;
- (f) to develop standards to ensure there is no double counting of emissions reductions achieved by approved projects, programmes and activities; and
- (g) to establish and maintain the Registry, including establishing and maintaining accounts and ensuring emissions reduction projects, programmes and activities and the issuance, holding, transfer, surrender or cancellation of emissions reduction units are accurately and transparently recorded in the Registry.

(3) The Director must exercise any other function or authority as prescribed by regulations made under this Act or directed by the Minister.

(4) At the request of the Director, a State entity must assist the Director to the extent possible within the capacity constraints of the relevant State entity.

National Climate Change Coordination Committee

12.—(1) This section establishes the National Climate Change Coordination Committee.

(2) The Committee established under subsection (1) consists of the permanent secretaries, the Director and other members nominated ~~to~~ under subsection (3).

(3) The permanent secretary responsible for climate change may nominate representatives from State entities to be members of the Committee.

(4) The permanent secretary responsible for climate change is to be the chairperson of the Committee and the Director is to be the deputy chairperson of the Committee.

(5) The Committee must meet at least once a year, with at least 75% of members present.

(6) The chairperson must preside at all meetings of the Committee, and if the chairperson is absent for any reason, the deputy chairperson must preside at that meeting.

(7) A member of the Committee may nominate an alternative person from their ministry or State entity to represent them at meetings of the Committee.

(8) The Committee must meet with the National Environment Council and the council, committee or representatives from the State entity responsible for national security annually.

(9) The Committee has the following functions—

- (a) to receive and respond to requests for support from its members in relation to responding to climate change and the implementation of this Act within their respective portfolios;
- (b) to promote the creation, implementation and monitoring of cross-cutting policies that support the implementation of this Act;
- (c) to ensure the alignment of ministerial and departmental activities with policies and frameworks to support the implementation of this Act;
- (d) to ensure the creation, implementation, monitoring and evaluation of relevant sector plans, with reference to performance indicators, and report back to the Minister;
- (e) to assist with resolving strategic level issues and risks related to climate change and the implementation of this Act by providing advice and guidance to ministers, ministries and departments;
- (f) to ensure the mainstreaming of the consideration of and action on climate change by the national and local governments including the provincial administrations;

- (g) to advise the national and local governments including the provincial administrations on policy and other measures necessary for responding to climate change and promoting net zero emissions and climate resilient development;
- (h) to provide guidance on the review, amendment and harmonisation of sectoral laws and policies in order to achieve the objectives of this Act;
- (i) to consider and endorse education programmes for industry groups or the general public related to the implementation of this Act or the National Climate Change Policy;
- (j) to provide advice, analysis, information or other assistance at the request of the Minister in connection with the progress made towards meeting the objectives set under this Act or any other matter relating to climate change; and
- (k) to perform any other functions requested by the Minister.

(10) The Committee has the power to—

- (a) request assistance from any State entity in carrying out any of its powers under this Act;
- (b) form technical working groups for the purpose of assisting the Committee carry out its functions under this Act; and
- (c) form consultative groups with meaningful participation of relevant experts and stakeholders, including the private sector, civil society organisations, youth organisations or representatives, and vulnerable and at-risk groups and communities.

(11) The Committee must keep proper records of its proceedings.

(12) The Committee must prepare an annual report of its operations.

(13) The Minister must cause the annual report of the Committee to be laid before Parliament as soon as practicable after receiving it.

(14) The Minister must develop and publish terms of reference for the Committee which are to set out the powers, duties and functions of the Committee in accordance with this section and to further support the implementation of this Act and other matters relating to climate change.

(15) The Minister must review and if necessary, update the terms of reference of the Committee at least every 5 years.

(16) The Committee must act in accordance with this section and its terms of reference.

Focal points

13.—(1) The permanent secretary for each ministry must, in consultation with the Director, appoint a person from within their ministry as a focal point.

(2) Each focal point is responsible for promoting the objectives and principles of this Act within their Ministry, and must report to the Director bi-annually on the implementation of this Act within their ministry.

Appointment of inspectors

14.—(1) Inspectors appointed in accordance with section 18 of the Environment Management Act 2005 are also inspectors for the purposes of this Act, including by collecting information in relation to emissions reduction projects, programmes and activities.

(2) Inspectors are authorised officers for the purposes of this Act.

(3) Inspectors must carry an identification card while on inspection.

(4) A person who forges or counterfeits an identification card under subsection (3) or uses any forged, counterfeit or false identification card or impersonates the inspector or authorised officer named in an identification card commits an offence and is liable on conviction to a fine not exceeding \$5,000 or a term of imprisonment not exceeding 12 months or both.

Powers of authorised officers

15.—(1) An authorised officer has the following powers—

- (a) to conduct any examination or inquiry, including the examination of any plant, substance or thing, to ascertain whether there has been compliance with or a breach of this Act;
- (b) to take or remove samples of any matter, substance or thing required for analysis in accordance with any regulations made for the purposes of this section;
- (c) to take possession of any machinery, equipment, plant or other thing for further examination or testing or for use as evidence;
- (d) to take pictures, photographs or measurements or make sketches or recordings in any form;
- (e) to examine any document or business records, in any form, and to make and take copies of such document;
- (f) to order the operation of the whole or part of a ministry, department, statutory authority, local authority or facility to be stopped for the purposes of inspection;
- (g) to interview any person for the purpose of inspection; and
- (h) to exercise any other powers conferred under this Act or any other written law.

(2) At the conclusion of an inspection, the authorised officer must—

- (a) prepare a report on the inspection; and

(b) provide a copy of the report to the ministry, department, statutory authority, local authority or facility.

(3) In exercising the powers under this Act, an authorised officer may be accompanied by a police officer, technical specialist or any other person for the purposes of inspection.

(4) If an authorised officer takes possession of a matter, substance, plant machinery or other item or thing from a ministry, department, statutory authority, local authority or facility, the ministry, department, statutory authority, local authority or responsible entity for the facility may request the Director to make a decision for the return of the matter, substance, plant machinery or other item or thing.

(5) Any document or information collected for the purposes of inspection must not be disclosed unless the document or information is disclosed—

- (a) for official purposes;
- (b) with the consent of the person who provided the document or information or to whom the information relates;
- (c) in a court or tribunal; or
- (d) in the public interest.

(6) An authorised officer or any person assisting an authorised officer in accordance with subsection (3) is not personally liable for any act done in good faith in the exercise of any power under this section.

Powers of authorised officers to enter and inspect

16.—(1) For the purposes of this Act, an authorised officer may, at any reasonable time—

- (a) enter and inspect any facility, land or premises in respect of which a permit or approval has been issued under this Act to determine whether any activity or undertaking is being carried out in contravention of the permit or approval or a condition of the permit or approval;
- (b) enter and inspect any facility, land or premises in respect of which a permit, approval or mitigation outcome statement has been issued under this Act to carry out surveys, investigations, tests, or measurements (including those that involve leaving measuring equipment on the land or premises);
- (c) enter and inspect any facility, land or premises where the authorised officer has reasonable grounds to believe documents or information pertaining to an offence under this Act can be found;
- (d) if the authorised officer has reasonable grounds to believe that a vessel or aircraft is contravening this Act, stop and inspect the aircraft or vessel; and
- (e) require the production of any document or information required to be kept under this Act or any other document or information related to the purpose for which the authorised officer is exercising a power under this Act.

(2) It is a condition of every permit, approval or mitigation outcome statement issued under this Act that the holder must permit **inspectors authorised officers** to carry out inspections required or authorised by this Act of any facility, land or premises, other than residential premises, to which the permit, approval or mitigation outcome statement relates.

(3) An employee of a ministry, department, statutory authority or local authority or the responsible entity for a facility, land or premises in respect of which an authorised officer is exercising powers under this Act must—

- (a) give the authorised officer any assistance to enable the authorised officer to exercise their powers and functions under this Act; and
- (b) provide any document or information required by the authorised officer for the purpose of this Act.

(4) A person commits an offence and is liable on conviction to a fine not exceeding \$10,000 if that person knowingly or deliberately—

- (a) conceals the location or existence of any matter, substance or plant machinery from an authorised officer;
- (b) wilfully obstructs access to an authorised officer to carry out the activities permitted in accordance with **section 15 and** this section; or
- (c) interferes with the collection of information and data by an authorised officer permitted in accordance with **section 15 and** this section.

Improvement notices

17.—(1) If an authorised officer has reason to believe that a State entity or the responsible entity for a facility, land or premises is contravening or has contravened this Act, the authorised officer may issue an improvement notice, in the prescribed form, to the State entity or responsible entity.

(2) A person who fails to comply with an improvement notice commits an offence and is liable on conviction to a fine not exceeding \$750,000.

PART 5—CLIMATE CHANGE OBLIGATIONS OF STATE ENTITIES

State entities must ensure consistency with objectives and principles of this Act

18.—(1) All State entities must ensure that any decision made and any policy, programme or process developed or implemented by the State entity after the commencement of this section is consistent with the guidelines published by the Minister in accordance with subsection (4), to the extent that the guidelines are applicable to the decision, policy, programme or process.

(2) All State entities must review and update relevant decisions made and policies, programmes and processes developed by the State entity prior to the commencement of this section for the purpose of ensuring that the decision, policy, programme or process is consistent with achieving the objectives and the principles of this Act if relevant to the decision, policy, programme or process.

(3) If the Court finds that climate change was relevant to a decision, policy, programme or process made, developed or implemented by a State entity after the commencement of this section, and also finds that the decision, policy, programme or process is not consistent with achieving the objectives and the principles of this Act, the Court may make an order—

- (a) setting aside the decision, policy, programme or process and requiring that the decision, policy, programme or process must be remade in accordance with subsection (2); or
- (b) any other such order that the Court sees fit to make.

(4) Within 12 months of the commencement of this section, the Minister, in consultation with the Committee, must prepare and issue guidelines on how State entities must ensure consistency with achieving the objectives and principles of this Act when making a decision or developing or implementing a policy, programme or process.

(5) The guidelines may—

- (a) apply to all decisions, policies, programmes or processes; or
- (b) apply to a specified class of decision, policy, programme or process.

(6) Without limiting subsection (4), the guidelines may—

- (a) provide practical guidance on the application of the objectives and the principles of this Act;
- (b) provide guidance on when the objectives and principles of this Act must be taken into account; or
- (c) provide guidance on how the obligation to consider the objectives and principles under this Act may be discharged.

Decision-makers must promote and ensure consistency with climate objectives

19.—(1) This section applies to any decision made or action taken under any of the laws prescribed in Schedule 1 that could be affected by or contribute to climate change.

(2) A person making a decision referred to in subsection (1) must make a decision or take an action that promotes and is consistent with achieving—

- (a) the objectives and principles of this Act;
- (b) the mitigation of and adaptation to the potential impacts of climate change relevant to the decision or action, including the potential to increase climate vulnerability and with reference to relevant integrated risk scenarios developed in accordance with this Act;
- (c) the mitigation of the potential contribution to Fiji's greenhouse gas emissions of the decision or action;
- (d) the NCCP;
- (e) Fiji's national security and sovereignty; and
- (f) any guidelines issued by the Minister.

(3) The potential impacts of climate change relevant to the decision under subsection (2)(b) include—

- (a) potential biogeochemical and biogeophysical impacts;
- (b) potential long and short term economic, environmental, health and other social impacts;
- (c) potential contributions to climate resilience;
- (d) potential beneficial and detrimental impacts;
- (e) potential direct and indirect impacts; and
- (f) potential cumulative impacts.

(4) The potential contribution to Fiji’s emissions of the decision under subsection(2)(c) includes—

- (a) potential short term and long term emissions;
- (b) potential scope 1, scope 2 and scope 3 emissions;
- (c) potential increases and decreases in emissions; and
- (d) potential cumulative impacts of emissions.

(5) The requirements of this section apply in addition to and without limiting the power or duty of a person making a decision referred to in subsection (1) to consider any other matter.

(6) Nothing in this section limits the power of a person making a decision not referred to in subsection (1) to consider any potential impacts of climate change or potential contributions to Fiji’s greenhouse gas emissions in making any other decision or taking any other action under any other written law.

(7) The Minister may by notice in the Gazette amend the list of laws prescribed in Schedule 1.

Ministerial guidelines for actions and decisions

20.—(1) The Minister must issue guidelines for a person making a decision referred to in section 19(1) as to the scope and application of the factors that the person is required to consider under section 19(2) when making that decision or taking that action.

(2) The Minister must consult with the minister administering a law specified in Schedule 1 before making a guideline that relates to a decision under that law.

(3) The Minister must publish guidelines issued in accordance with this section in the Gazette.

Integration of this Act within ministries

21.—(1) Each focal point appointed in accordance with section 13 must take all reasonable steps to support the implementation of this Act within their ministry.

(2) Each ministry must report annually to the Director on the implementation of this Act within their ministry, including on the implementation of any duties, functions and obligations assigned to a minister or department under this Act or regulations made under this Act.

Environmental impact assessment

22. Where an environmental impact assessment is required under the Environment Management Act 2005 for a proposed activity or undertaking, and that proposed activity or undertaking may result in material greenhouse gas emissions, increased climate vulnerability of the surrounding area including upstream or downstream impacts, or could be adversely affected by the impacts of climate change, the environmental impact assessment must include an assessment of those matters and measures to address them.

Government procurement

23.—(1) The Fijian Procurement Office established by the Procurement Regulations 2010 must formulate procurement policies that are consistent with, or review and update existing procurement policies to ensure they are consistent with, the objectives and principles of this Act and the implementation of Fiji’s NDC, NCCP, LEDS, NAP and National Ocean Policy and where possible, these procurement policies are to set minimum standards for—

- (a) promoting adaptation and climate resilience; and
- (b) sourcing zero or low emissions products, vehicles or energy sources.

(2) The Fijian Procurement Office may request information and guidance from the Committee in carrying out their respective obligations under this section.

Ministerial portfolios, functions and human resourcing

24.—(1) All ministers must, where relevant, annually review and assess ministerial portfolios and functions in relation to climate risks and make adjustments and changes to key performance indicators with the aim of ensuring climate change considerations are able to be adequately addressed.

(2) All ministers must **ensure that the permanent secretary in their Ministry, in consultation with their minister**, where relevant, reviews and revises key performance indicators and job descriptions for civil servants within their ministry with the aim of ensuring that civil servants are increasingly equipped with relevant specialist skills to support the implementation of this Act.

(3) Any minister may request information and guidance from the Committee in carrying out their respective obligations under this section.

Integration of climate change into curricula

25.—(1) In accordance with section 31(4) of the Constitution, the minister responsible for education must, in consultation with the Minister, integrate evidence-based learning about climate change into a variety of subjects of the Fiji National Curriculum Framework at all levels of the curriculum.

(2) The Minister may advise State entities responsible for universities and tertiary institutions on the integration of evidence-based learning about climate change into their curricula.

National budget submissions

26.—(1) The minister responsible for finance must provide information on the economic implications of climate change in the supplement to the national budget.

(2) All State entities must include in their budget submissions—

- (a) actual and estimated details of climate-relevant expenditure for the purposes of the national budget and budget estimates document along with the financial impacts of climate change on the State entity; and
- (b) information on support needed and received in relation to finance, technology transfer and capacity-building under Articles 9, 10 and 11 of the Paris Agreement.

(3) The Minister, with the assistance of the Committee, must prepare and publish guidelines for the purpose of assisting State entities to comply with their obligations under subsection (2).

PART 6—DEVELOPMENT AND EVALUATION OF THE NATIONAL CLIMATE CHANGE POLICY

Development of the National Climate Change Policy

27.—(1) The Minister must, with the assistance of the Committee, develop and implement a NCCP for the period until 2030 and for successive periods of 10 years.

(2) The Minister must publish the NCCP online prior to the commencement of each successive period.

(3) The Minister must, when developing the NCCP and with the assistance of the Committee, conduct public consultations in a manner that encourages the participation of a diverse range of stakeholders, including the private sector, civil society organisations, youth organisations or representatives, and vulnerable and at-risk groups and communities.

(4) The Minister, in developing and implementing the NCCP, is to be informed by—

- (a) the objectives, principles, rights, powers and obligations established under this Act;
- (b) the data collated and submitted in satisfaction of monitoring and reporting requirements under the Convention, the Paris Agreement, the Convention on Biological Diversity and any voluntary reporting in relation to the SDGs;
- (c) the best available scientific knowledge about climate change, including relevant information published by the IPCC;
- (d) clean technology and technological innovations relevant to climate change;

- (e) economic circumstances, in particular the likely impact of the NCCP on the following—
 - (i) the economy;
 - (ii) the maintenance of competition in particular sectors of the economy;
 - (iii) small and medium enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
 - (f) social circumstances, in particular the likely impact of strategies and policies on the marginalised and disadvantaged communities;
 - (g) fiscal impacts especially in relation to the avoidance of future costs;
 - (h) environmental circumstances, in particular the likely impact of the NCCP on the health and integrity of land and ocean biodiversity and ecosystem services;
 - (i) international law and policy relating to climate change;
 - (j) traditional knowledge of all Fijians relating to climate change adaptation and mitigation; and
 - (k) matters raised during public consultations conducted for the purpose of this Part.
- (5) The NCCP must—
- (a) state clear objectives and appropriate targets to achieve those objectives;
 - (b) be explicitly in line with this Act and the Paris Agreement, and enhance synergies with other relevant national, regional and international policies, strategies and frameworks;
 - (c) provide clear policy guidelines, and related strategic actions, to meet the overall objectives of the policy; and
 - (d) embed gender, human-rights, and social and cultural issues.
- (6) The NCCP must address all sectors of the economy and provide mechanisms for the mainstreaming of the NCCP into those sectors.
- (7) The Minister must develop and implement monitoring and evaluation frameworks and systems to monitor, in relation to the NCCP—
- (a) delivery time-frames for results;
 - (b) institutional performance and knowledge retention; and
 - (c) progress made against development objectives.

Review of the National Climate Change Policy

28.—(1) The Minister must, with the assistance of the Committee, review and amend the NCCP for successive 10-year periods in alignment with the review and enhancement of Fiji's successive NDCs under Part 3.

(2) The Minister, when reviewing the NCCP and with the assistance of the Committee, is to conduct public consultations in accordance with section 27(3) and be informed by the matters listed in section 27(4).

(3) The Minister must prepare a report which outlines the findings of the review of the NCCP and contains recommendations for the plan to be amended and must—

- (a) present the report to Parliament; and
- (b) publish the report online including on the Information Platform.

(4) Parliament must consider the report and proposed amendments to the plan as set out in subsection (3) and must either approve, amend or reject the Minister's proposed amendments to the NCCP.

PART 7—MEASUREMENT, REPORTING AND VERIFICATION OF EMISSIONS
AND EMISSIONS REDUCTIONS

Fijian GHG Inventory

29.—(1) The Minister must develop the Fijian GHG Inventory in accordance with the good practice guidelines and methodologies established under the Convention, accepted by the IPCC and agreed upon by the CMA.

(2) The Minister must make the Fijian GHG Inventory publicly available online on the Information Platform.

Sector-based collection of data and information needed to estimate emissions and emissions reduction data

30.—(1) The following permanent secretaries must biennially estimate and compile data related to emissions and emissions reductions activities from within their portfolio and submit it to the Committee—

- (a) the permanent secretary or permanent secretaries responsible for energy and transport in relation to the energy and transport sectors;
- (b) the permanent secretary or permanent secretaries responsible for industrial processes and product use in relation to the industrial processes and product use sector;
- (c) the permanent secretary or permanent secretaries responsible for agriculture, forestry and other land use in relation to the agriculture, forestry and other land use sector; and
- (d) the permanent secretary or permanent secretaries responsible for waste in relation to the waste sector.

(2) The Director must compile the emissions and emissions reductions data reported in relation to each sector, take all reasonable steps to ensure the data is consistent and accurate, and submit the compiled emissions and emissions reduction data to the Committee.

(3) The Director may request the assistance of technical working groups convened in accordance with section 12(10)(b) to support carrying out its functions under subsection (2) and to support the permanent secretaries in carrying out their responsibilities under subsection (1).

(4) The Minister, in consultation with the Committee, may establish a body, agency, working group (or work with technical working groups convened in accordance with section 12(10)(b)) to support, advise and carry out an administrative function for the compilation of emissions and emissions reductions data for the purpose of supporting the Director to carry out its functions under this section.

(5) The permanent secretaries referred to in subsection (1) may request that—

- (a) a State entity provide emissions and emissions reduction data and related information in relation to the State entity's portfolio or operations; and
- (b) a person who operates a facility or facilities in Fiji that emit in excess of an amount of carbon dioxide equivalent per financial year as prescribed by regulations made under this Act, provide emissions and emissions reduction data and related information in relation to the facility for the previous financial years.

(6) State entities, and persons who operate a facility or facilities in Fiji that emit in excess of an amount of carbon dioxide equivalent per financial year as prescribed by regulations made under this Act, must—

- (a) promptly respond to any requests for data and information made by a permanent secretary in accordance with this section; and
- (b) provide the requested data and information where possible.

(7) The Minister must consult with relevant stakeholders to determine the quantity prescribed in accordance with subsections (5) and (6).

(8) The Minister may develop and publish guidelines for the purpose of enhancing the accuracy, consistency and coverage of data estimated and compiled for the purpose of this section.

Mandatory reporting on bulk sale of fuels

31.—(1) A person who imports fuels into Fiji for the purposes of distributing or selling fuel to companies or individuals must keep and biennially provide information to the permanent secretary responsible for transport on the amount of fuel sold for the financial year.

(2) The Minister must develop and publish guidelines on the content and form of the information that is to be kept and provided to the relevant permanent secretary for transport, including with respect to the type of fuels that must be reported on.

Voluntary facility-level reporting on emissions and emissions reduction data

32.—(1) A person who operates a facility in Fiji that collectively emits in excess of a quantity of carbon dioxide equivalent as specified by regulations per financial year may keep and biennially provide information to the relevant permanent secretary as prescribed by regulations made under this Act on their net greenhouse gas emissions for the financial year, including emissions by sources and anthropogenic removals by sinks of greenhouse gases and any emission reductions transferred internationally under Article 6 of the Paris Agreement or for any other purpose.

(2) The Minister must consult with relevant stakeholders to determine the quantity prescribed in accordance with subsection (1).

(3) The Minister may develop and publish guidelines which provide guidance on the content and form of the information that may be kept and provided to the relevant permanent secretary, including with respect to—

- (a) industrial processes, including by-products from industrial processes;
- (b) emissions of greenhouse gases into the atmosphere;
- (c) composition of vehicle fleets and use of vehicles, including distances travelled;
- (d) waste composition and weight, dimensional characteristics of landfills and dumps, and volume of landfill and dump gases extracted and combusted;
- (e) numbers of ruminants and other farmed livestock and their emissions;
- (f) areas of crops and amounts produced;
- (g) amount of urea, organic fertilisers and nitrogenous and lime fertilisers used;
- (h) native and planted trees, the amount of harvesting, the area of land in scrub, and the area of land in other land uses that are necessary to determine land use change under the Convention or the Paris Agreement;
- (i) imports and exports of greenhouse gases controlled by the Montreal Protocol; and
- (j) imports, exports, manufacture, sales, and the nature of the use of products that contain hydrofluorocarbons, perfluorocarbons, and sulphur hexafluoride.

(4) The guidelines may specify—

- (a) methodologies for calculating anthropogenic emissions by sources and anthropogenic removals by sinks of greenhouse gases;
- (b) the system for monitoring, reporting and verification so as to ensure the accuracy and integrity of reports; and

- (c) the manner and form in which records may be kept and provided, including specifying that those records must be declared as true, the form of that declaration, and who must sign that declaration.

(5) The following written material may be incorporated, in whole or in part, by reference in the guidelines—

- (a) decisions, rules, guidelines, principles, measures, methodologies, modalities, procedures, mechanisms, or other matters adopted, agreed on, made, or approved by any international or national organisation in accordance with the Convention or the Paris Agreement; and
- (b) any standards, requirements, or recommended practices of any international or national organisation that are adopted, agreed on, made, or approved in accordance with the Convention or the Paris Agreement.

National inventory report

33.—(1) The Director must prepare a national inventory report biennially and in accordance with the Paris Agreement, using the emissions data contained in the Fijian GHG Inventory.

(2) The Director must submit each national inventory report to the Minister at least one month prior to the date by which national inventory reports must be submitted in accordance with the Paris Agreement.

(3) The Director must make national inventory reports publicly available online as soon as practicable after they are submitted in accordance with the Paris Agreement, including on the Information Platform.

PART 8—RESEARCH, DATA COLLECTION, REPORTING AND COMMUNICATIONS

National climate change communications strategy

34. The Minister may direct the Director to develop, review and update a national climate change communications strategy to guide the dissemination of climate change related information through a variety of formats, media-types, languages and other communications channels for the purpose of increasing the consistency of State entities' communications on climate change and improving public awareness, risk-reduction and preparedness.

Collection of research from persons

35. Any person who is undertaking research in Fiji is encouraged to provide the Director with a copy of any final research findings that relate to climate change, including final research findings—

- (a) formally submitted in satisfaction of some or all of the requirements of a degree or qualification either within or outside of Fiji; or
- (b) published online or in print, including in an academic journal.

Collection of research from organisations

36.—(1) The Director may request that any organisation, including donor organisations, non-government organisations, tertiary institutions or other organisations, that fund or perform research in Fiji provide the Director with—

- (a) details of the research activities from the date such activities are approved; and
 - (b) a copy of any final research findings that relate to climate change and substantially draw upon research undertaken in Fiji within 14 days of those final research findings being published online or in print, including in an academic journal.
- (2) Organisations who fund or perform research in Fiji must—
- (a) promptly respond to any requests made by the Director in accordance with subsection (1); and
 - (b) provide the requested details or final research findings to the extent that such details or research findings are not commercial or confidential in nature.

Information Platform

37.—(1) Within 12 months of the commencement of this section, the Director must develop a publicly accessible Information Platform online for the purpose of increasing the availability and accessibility of comprehensive data, information and government policies related to climate change.

(2) The Director must maintain the Information Platform and ensure that it contains all data and policies relevant to this purpose, including—

- (a) the National Development Plan, NCCP, LEDS, NAP, Fijian Planned Relocation Guidelines and National Ocean Policy;
- (b) any report relating to the review of the NCCP, NAP and National Ocean Policy;
- (c) any report, statement or communication made in accordance with Part 3, including Fiji's NDC, national inventory reports and adaptation communications;
- (d) research provided to the Director in accordance with sections 35 and 36;
- (e) statements made in accordance with section 38(3);
- (f) each carbon budget;
- (g) a link to the website containing the Registry;
- (h) a link to the website containing the Adaptation Registry;
- (i) any integrated risk scenarios developed in accordance with this Act;

- (j) information regarding national climate change vulnerability for human settlements, infrastructure, coastal zones and river deltas, agriculture, forests and biodiversity; and
- (k) activities supported by climate finance initiatives, including those supported by the Green Climate Fund, Adaptation Fund, multilateral development banks, the ECAL and where available private sector sources, insurance initiatives and any other funds or mechanisms.

(3) The Director must take all reasonable steps to ensure that the Information Platform is accessible to people with disabilities.

(4) The Director must ensure that all national climate policies, plans, strategies and frameworks developed or updated have a knowledge management and data continuity plan and necessary data protection and security.

PART 9—CLIMATE CHANGE MITIGATION

Long term emissions reduction target

38.—(1) The long term emissions reduction target for Fiji is net zero greenhouse gas emissions by 2050.

(2) The Minister must, with the assistance of the Committee, take all reasonable steps to promote the achievement of the long term emissions reduction target through the development and implementation of carbon budgets, the LEDES, NCCP and NDC.

(3) Every 5 years the Minister must, with the assistance of the Committee, publish a statement of—

- (a) Fiji’s greenhouse gas emissions over the 5-year period, and any preceding 5-year periods reported on under this section;
- (b) an assessment of the progress made towards Fiji’s NDC and the long term emissions reduction target at the national and sectoral levels, with reference to carbon budgets and mitigation measures, policies and programmes; and
- (c) recommendations on measures needed to meet the emissions reduction target in Fiji’s NDC and the long-term emissions reduction target.

Carbon budgeting

39.—(1) This section establishes the process for the development of 5-year carbon budgets for the purposes of planning whole of economy emissions reductions as part of a cumulative effort to achieve net zero greenhouse gas emissions by 2050.

(2) The Minister, with the assistance of the Committee, must determine a carbon budget for Fiji in respect of each of the following periods—

- (a) 1 January 2026 to 31 December 2030;
- (b) 1 January 2031 to 31 December 2035;
- (c) 1 January 2036 to 31 December 2040;

(d) 1 January 2041 to 31 December 2045; and

(e) 1 January 2046 to 31 December 2050.

(3) The carbon budget under subsection (2)(a) must be determined on or before 31 March 2023.

(4) The carbon budget under subsection (2)(b) must be determined on or before 31 March 2025.

(5) The carbon budget under subsection (2)(c) must be determined on or before 31 March 2028.

(6) The carbon budget under subsection (2)(d) must be determined on or before 31 March 2033.

(7) The carbon budget under subsection (2)(e) must be determined on or before 31 March 2038.

(8) The Minister must cause each carbon budget to be laid before Parliament within 10 sitting days after the determination of the carbon budget.

(9) The Minister must make each carbon budget publicly available online as soon as practicable after the target is laid before Parliament in accordance with subsection (8), including on the Information Platform.

(10) The Minister must ensure that each carbon budget constitutes a greater reduction in greenhouse gas emissions than any previous carbon budget as part of the cumulative effort to achieve net zero greenhouse gas emissions by the year 2050.

(11) The Minister, with the assistance of the Committee, must take all reasonable steps to promote the achievement of each carbon budget.

Form of carbon budgets

40.—(1) Each carbon budget must be expressed as the extent to which the amount of Fiji's greenhouse gas emissions is to be reduced in relation to the amount of Fiji's greenhouse gas emissions for the year 2013.

(2) For the purposes of this section, the Minister must determine a figure that represents the amount of Fiji's greenhouse gas emissions for the year 2013 in accordance with the IPCC methodologies.

Matters for consideration in determining carbon budgets

41. In determining each carbon budget, the Minister must have regard to—

(a) the long-term emissions reduction target and indicative trajectories for Fiji to achieve the long-term emissions reduction target;

(b) the National Development Plan, NDC, NCCP, LEDS and any other relevant policy instruments;

- (c) potential opportunities across Fiji’s economy for reducing greenhouse gas emissions in the most efficient and cost-effective manner in the carbon budget period, with reference to any technology relevant to mitigating climate change;
- (d) the best available scientific knowledge about climate change, including relevant information published by the IPCC;
- (e) economic circumstances, in particular the likely impact of the target on—
 - (i) the economy; and
 - (ii) the maintenance of competition in particular sectors of the economy;
- (f) social circumstances, in particular the likely impact of the target on the health and wellbeing of Fijians;
- (g) environmental circumstances, in particular the benefits to the environment of emissions reduction;
- (h) natural disasters and the adverse impacts of climate change, and the extent to which they have affected or will affect Fiji’s greenhouse gas emissions;
- (i) the extent to which donor funding has been made available;
- (j) existing national and global action on climate change; and
- (k) any progress towards the reduction of greenhouse gas emissions in Fiji.

Amending carbon budgets

42.—(1) Subject to this section, this Part applies to a proposed amendment to a carbon budget as if the proposed amendment were the initial carbon budget for a carbon budget period.

(2) The Minister may amend a carbon budget or the carbon budgets if, in the opinion of the Minister, exceptional circumstances apply.

(3) Section 39(3) to (7) will not apply to the amendment of a carbon budget.

(4) The publication of an amended carbon budget must be accompanied by a statement of the reasons why the amendment is necessary.

Minister has the power to introduce and implement regulations, measures and actions

43.—(1) The Minister has the power to introduce and implement regulations, measures and actions with the purpose of limiting or reducing Fiji’s greenhouse gas emissions across the economy including the energy, transport, industry, agriculture, forestry, fisheries, waste, tourism, aviation and shipping sectors.

(2) Without limiting subsection (1), the Minister may—

- (a) introduce and implement a carbon pricing mechanism, including an emissions trading scheme;

- (b) prescribe fees and other charges due to the State paid on the volume of greenhouse gas emissions above a prescribed level;
 - (c) introduce and implement fiscal incentives and national levies with the purpose of—
 - (i) limiting or reducing Fiji’s greenhouse gas emissions, including in relation to particular sectors or industries;
 - (ii) enhancing the conservation of natural sinks, particularly within natural protected areas and ecological conservation zones; and
 - (iii) encouraging public and private investment in renewable energy and efficient cogeneration technologies, energy efficient infrastructure and zero-waste infrastructure and processes;
 - (d) enhance environmental protection of land and ocean carbon sinks in consultation with the ministers responsible for forests, fisheries, agriculture and environment, including with respect to halting and reversing deforestation and degradation of forests, afforestation initiatives, Fiji’s REDD+ initiative, reef and fisheries conservation, mangrove protection and planting initiatives, nature-based coastal protection applications and sustainable agricultural practices;
 - (e) make regulations and develop policies for the construction of sustainable, low-emissions, energy efficient and climate resilient infrastructure and buildings; and
 - (f) implement programmes that raise awareness of the impact of patterns of production and consumption in the generation of greenhouse gas emissions and compounds and promote patterns of sustainable production and consumption in the civil, social and private sectors.
- (3) The Minister must have regard to the following factors when preparing regulations, measures and actions under subsection (1)—
- (a) the objectives and principles of this Act;
 - (b) Fiji’s long term emissions reduction target and carbon budgets; and
 - (c) the alignment of the regulations, measures or actions with Fiji’s current National Development Plan, NDC, NCCP and LEDS.

Transport Decarbonisation Implementation Strategy

44.—(1) The Minister must, in consultation with the Minister responsible for transport, develop and implement a detailed Transport Decarbonisation Implementation Strategy within 2 years from the commencement of this section, that builds upon the LEDS to decarbonise the transport sector by 2050.

(2) The Minister must review and update the Transport Decarbonisation Implementation Strategy every 5 years.

PART 10—CARBON SEQUESTRATION PROPERTY RIGHTS AND EMISSIONS
REDUCTION PROJECTS, PROGRAMMES AND ACTIVITIES

Carbon sequestration property rights

45.—(1) In this Act, carbon sequestration property right means the exclusive and distinct legal right to carbon sequestration and carbon stocks.

(2) A carbon sequestration property right—

- (a) must be registered in accordance with this Part with the office of the Registrar of Titles who, for the purposes of this Act, is the Registrar of Carbon Sequestration Property Rights (**the Registrar**);
- (b) is owned by the person to whom the carbon sequestration property right is registered under this Part (**right holder**);
- (c) is a separate interest in land over which the right applies;
- (d) does not confer a right of possession of land over which the right applies;
- (e) is registered in the form of a certificate that attaches to the area of land to which the right applies until it is cancelled under section 46(14) or its term is concluded or renewed; and
- (f) when registered in accordance with this Part and regulations made under this Act, entitles the right holder to deal with the right whether by sale, transfer, mortgage, charge or pledge.

Registration of carbon sequestration property rights

46.—(1) The following persons may apply to the Registrar to register a carbon sequestration property right—

- (a) a person who holds a licence or lease over the land to which the right applies which has been granted by the landowner and has the consent of the landowner of the land, if applicable;
- (b) a third party, if the landowner of the land to which the right applies has consented to be issued the carbon sequestration property right; or
- (c) in relation to freehold land, the landowner of the land to which the right applies, if there is no conflicting licence or lease over the land.

(2) For the purposes of subsection (1) and in relation to iTaukei land, a landowner is deemed to consent to the registration of a carbon sequestration property right if a consent notice as prescribed by regulations made under this Act is delivered to the Registrar signed by a minimum of 60% of the qualifying members.

(3) If the application is for land for which a lease has been issued or granted by the iTaukei Land Trust Board or the Director of Lands, the carbon sequestration property right may only be registered or dealt with under section 45(2)(f) with the consent of the iTaukei Land Trust Board or the Director of Lands, as applicable.

(4) The Registrar may only register a carbon sequestration property right for proposed emissions reduction projects, programmes and activities involving forests with the consent of the Conservator of Forests.

(5) For the purposes of subsection (3), consent may only be refused where there is a breach of any lease condition or where the application is not in accordance with any law.

(6) A carbon sequestration property right may only be registered for a term—

(a) that is equal to or greater than the permanence period of an emissions reduction project, programme or activity (as set out in the applicable emissions reduction methodology) proposed to be carried out on the land, or as otherwise determined by the Conservator of Forests;

(b) for land that is subject to a lease, approval notice for lease or agreement for lease, that is equal to or less than the term of the lease, approval notice for lease or agreement for lease.

(7) A carbon sequestration property right may only be registered if the application—

(a) is in a form approved by the Registrar;

(b) contains a statement that it is for the creation of a carbon sequestration property right under this Act;

(c) contains the land description for the land over which it applies;

(d) identifies, if the carbon sequestration property right is to be in respect of only part of the land referred to in paragraph (c), by way of a scheme plan, the part of the land that is the subject of the carbon sequestration property right; and

(e) specifies the term of the carbon sequestration property right.

(8) A certificate issued for a registered carbon sequestration property right is to be in the prescribed form.

(9) The Registrar may only register one carbon sequestration property right in respect of a particular area of land.

(10) The Registrar must record a registered carbon sequestration property right in a register entitled the “Register of Carbon Rights” (**the Register**), including details of the land and any licence or lease to which the right applies.

(11) Searches may be made in the Register and copies of certificates granted to the right holder upon payment of the prescribed fee.

(12) The Registrar of Titles must list a registered carbon sequestration property right as an encumbrance on a lease or title over land to which the registered carbon sequestration property right applies.

(13) The Registrar of Deeds must register as a deed a registered carbon sequestration property right in respect of an approval notice of lease or agreement for lease over land to which the registered carbon sequestration property right applies.

(14) A right holder may apply to the Registrar for the cancellation of the certificate if the emissions reduction project, programme or activity is not approved by the Director or an approval or declaration is revoked by the Director.

Land over which a carbon sequestration property right is registered

47. No mining, logging, exploration, exploitation or extractive activity is to be approved on lands over which—

- (a) a carbon sequestration property right has been registered; and
- (b) an international REDD+ program or emissions reduction project, programme or activity involving forests, blue carbon or other project, programme or activity type prescribed by regulations made under this Act has been approved.

REDD+ Policy

48. The Minister responsible for forests is responsible for—

- (a) developing and updating Fiji's national REDD+ policy and strategy including the development of any national or sub-national REDD+ programme;
- (b) developing the national forest reference emissions level;
- (c) developing policies, procedures and safeguards for the implementation of REDD+ and forest emission reduction projects, programmes and activities, with all safeguards to be developed in accordance with ~~the United Nations Declaration on the Rights of Indigenous Peoples sections 28, 29, and 40 of the Constitution, for the benefit of present and future generations;~~
- (d) Fiji's participation in international REDD+ programmes; and
- (e) developing a benefit sharing arrangement for forest emission reduction projects, programmes and activities.

Fijian Emissions Reduction Methodologies

49.—(1) The Director may develop emissions reduction methodologies.

(2) The Minister may by notice in the Gazette approve as a Fijian Emissions Reduction Methodology—

- (a) an emissions reduction methodology developed by the Director; or
- (b) an emissions reduction methodology that is approved under an approved international emissions reduction standard or a foreign emissions trading scheme and for which it has obtained consent to use.

(3) The Minister must consult with the Minister responsible for forests before approving a Fijian Emissions Reduction Methodology that relates to an emissions reduction project, programme or activity involving forests.

(4) The Minister may order the variation of a Fijian Emissions Reduction Methodology.

Fijian Emissions Reduction Projects, Programmes or Activities

50.—(1) A person may apply to the Director for the declaration of an emissions reduction project, programme or activity as a Fijian Emissions Reduction Project, Programme or Activity.

(2) A person who is applying for the declaration in respect of an emissions reduction project, programme or activity involving forests, blue carbon or other project, programme or activity type prescribed by regulations must own the registered carbon sequestration property right for the land upon which that project, programme or activity is proposed to be conducted.

(3) The Director must determine, in writing, an application made in accordance with subsection (1) within 60 days of receiving the application by either—

(a) declaring the emissions reduction project, programme or activity to be a Fijian Emissions Reduction Project, Programme or Activity, with or without conditions; or

(b) refusing the application.

(4) If the Director makes the declaration, the Director must also specify the crediting period in the declaration.

(5) Notwithstanding subsection (3), the Director must refuse an application if the emissions reduction project, programme or activity does not meet the requirements that are set out in a Fijian Emissions Reduction Methodology, this Act or regulations made under this Act, or if carried out, that project, programme or activity would result in a contravention of this Act or regulations made under this Act.

(6) The Director must consult with the Conservator of Forests prior to making a determination in accordance with subsections (3) and (4) in relation to a project, programme or activity involving forests.

(7) The Director must immediately register a Fijian Emissions Reduction Project, Programme or Activity in the Registry.

(8) A person who disagrees with a decision of the Director under subsection (3) may, within 30 days of the decision, appeal to the Court.

Fijian Emissions Reduction Statement

51.—(1) After the end of a reporting period for a Fijian Emissions Reduction Project, Programme or Activity, the proponent of that project, programme or activity may apply to the Director for a Fijian Emissions Reduction Statement.

(2) The application must—

(a) be in the form approved by the Director;

(b) nominate a Registry account number that Fijian Mitigation Outcomes Units are to be issued to;

- (c) contain a verification report; and
- (d) contain such other information as prescribed by regulations made under this Act.

(3) The Director may, by written notice require the applicant to give the Director, within the period specified in the notice, further information in connection with the application.

(4) The Director must issue a Fijian Emissions Reduction Statement within 30 days of receiving the application if he or she is satisfied that—

- (a) the applicant was, immediately before the end of the period, the project, programme or activity proponent;
- (b) the verification report is true and correct and the emissions reductions generated by the project, programme or activity have been verified in accordance with the applicable methodology, regulations, rules or standards;
- (c) the grant of the statement will not result in any double counting of emission reductions from the project, programme or activity; and
- (d) any preconditions specified in the regulations have been met.

(5) The Fijian Emissions Reduction Statement must state that a specified number of emissions reductions have been achieved by the Fijian Emissions Reduction Project, Programme or Activity for the relevant reporting period and that an equivalent number of Fijian Mitigation Outcome Units may be issued to the nominated Registry account.

Issue of Fijian Mitigation Outcome Units in respect of Fijian Emissions Reduction Projects, Programmes and Activities

52.—(1) If a Fijian Emissions Reduction Statement has been issued in respect of a Fijian Emissions Reduction Project, Programme or Activity for a reporting period, the Director must, as soon as practicable after the day on which the Fijian Emissions Reduction Statement was issued, issue to the Registry account nominated on the statement a number of Fijian Mitigation Outcome Units equal to the number specified in the statement as the unit entitlement for that statement.

(2) Upon the issuance of a Fijian Mitigation Outcome Unit to a person, that person will be the legal owner of the Fijian Mitigation Outcome Unit.

Property in Fijian Mitigation Outcome Units

53.—(1) A Fijian Mitigation Outcome Unit is personal property and subject to this Act and regulations made under this Act is transmissible by assignment, by will and by devolution by operation of law.

(2) For the avoidance of doubt, a Fijian Mitigation Outcome Unit is personal property for the purposes of—

- (a) the Personal Property Securities Act 2017; and
- (b) the Proceeds of Crime Act 1997.

(3) The registered holder of a Fijian Mitigation Outcome Unit may transfer the unit domestically or internationally subject to the requirements in this Act and regulations made under this Act.

Requirement to cancel Fijian Mitigation Outcome Units where there has been a reversal of sequestration

54.—(1) If Fijian Mitigation Outcome Units have been issued in respect of a Fijian Emissions Reduction Programme, Project or Activity involving forests, blue carbon, or other project, programme or activity type prescribed by regulations, and there has been a material reversal or loss of carbon stocks within the permanence period of that programme, project or activity, the proponent must report the reversal or loss of carbon stocks to the Director as soon as practicable after becoming aware of the reversal or loss of carbon stocks.

(2) The Director may, taking into account any factors outside the control of the proponent that contributed to the reversal or loss of carbon stocks, by writing, require the proponent to remedy the reversal or loss of carbon stocks.

(3) A proponent may satisfy a requirement under subsection (2) to remedy the reversal or loss of carbon stocks by, within 90 days after the requirement was issued—

- (a) submitting a remediation plan to the Director; or
- (b) purchasing and cancelling a number of Fijian Mitigation Outcome Units or other emissions reduction units approved by the Director as equivalent to the reversal or loss of carbon stocks.

(4) If a proponent fails to satisfy either subsection (3)(a) and carry out the remediation plan to the satisfaction of the Director or subsection (3)(b), the Director may revoke the declaration of the programme, project or activity as a Fijian Emissions Reduction Programme, Project or Activity.

Registration and conduct of emissions reduction projects, programmes and activities under approved international emissions reduction standards

55.—(1) A person who registers and conducts an emissions reduction project, programme or activity in Fiji under an approved international emissions reduction standard or uses, sells or transfers emission reduction units under the relevant standard without the consent of the Director commits an offence and is liable on conviction to a fine not exceeding \$750,000.

(2) A person may apply to the Director for the Director's consent for the proponent to—

- (a) register or conduct an emissions reduction project, programme or activity in Fiji under an approved international emissions reduction standard for a designated crediting period; or
- (b) use, sell and transfer domestically and/or internationally emissions reduction units issued under an approved international emissions reduction standard for an emissions reduction project, programme or activity during the designated crediting period.

(3) A person who is making an application in accordance with subsection (2)(a) that involves forests, blue carbon or other project, programme or activity type prescribed by regulations must own the registered carbon sequestration property right for the land upon which the emissions reduction project, programme or activity is proposed to be conducted.

(4) The Director must determine, in writing, an application made in accordance with subsection (2) within 30 days of receiving the application by either—

- (a) granting consent for some or all of the matters which are the subject of the application, with or without conditions; or
- (b) refusing consent to the application.

(5) The Director may only grant consent, under subsection (4)(a), to an application if he or she is satisfied that the project, programme or activity or domestic or international use, sale or transfer of emissions reduction units issued under an approved international emissions reduction standard—

- (a) complies with this Act and regulations made under this Act;
- (b) is consistent with Fiji's NDC;
- (c) is consistent with any relevant policy, guidelines, standards or procedures adopted by the Government;
- (d) if applicable, is consistent with any requirements under the Paris Agreement or any other international agreements to which Fiji is a Party including those with respect to avoiding double counting; and
- (e) if applicable, is consistent with any rules, modalities and guidance developed by the CMA for the purposes of Articles 6 and 13 of the Paris Agreement.

(6) The Director must consult with the Conservator of Forests prior to giving consent in relation to a project, programme or activity involving forests.

(7) A person who disagrees with a decision of the Director under subsection (4) may, within 21 days of the decision, appeal to the Court.

(8) Emissions reduction projects, programmes or activities in Fiji that are registered under an approved international emissions reduction standard prior to the date this section commences must apply for the Director's consent, in accordance with subsection (2), to continue conducting the project, programme or activity from the date this section commences.

(9) The Director must record the approval of an international transfer under this section and ensure that each emission reduction unit issued in relation to an emissions reduction project, programme or activity in Fiji that is registered under an approved international emissions reduction standard is issued with a unique serial number and properly recorded and tracked in the Registry and accounted for in the Fijian GHG Inventory.

(10) Subsection (9) applies to projects, programmes or activities that were registered under an approved international emissions reduction standard both prior to and after the commencement of this section.

Conversion of emission reduction units generated in Fiji under international emissions reduction standards to Fijian Mitigation Outcome Units

56.—(1) The proponent of an emissions reduction project, programme or activity in Fiji that is registered under an approved international emissions reduction standard may apply to the Director for the Director's consent for the proponent to convert any or all of the emission reduction units issued in relation to the project, programme or activity to Fijian Mitigation Outcome Units.

(2) The application must nominate—

- (a) the applicable approved international emissions reduction standard;
- (b) the emissions reduction project, programme or activity;
- (c) the number of emission reduction units that the proponent is proposing to cancel from a foreign account;
- (d) the number of Fijian Mitigation Outcome Units that represent an equal amount of emissions reductions to the emission reduction units that the proponent is proposing to cancel; and
- (e) a Registry account number that Fijian Mitigation Outcome Units may be issued to.

(3) The Director must determine, in writing, the application within 60 days of receiving the application by either—

- (a) granting consent to the application, with or without conditions; or
- (b) refusing consent to the application.

(4) The Director may only grant consent to the application if he or she is satisfied that—

- (a) there will be no double-counting of emissions reductions;
- (b) the emissions reductions represented by the number of emission reduction units nominated in the application for cancellation are equal to the emissions reductions represented by the number of Fijian Mitigation Outcome Units nominated in the application for issuance; and
- (c) in the case of an emissions reduction project, programme or activity that involves forests, blue carbon or other project, programme or activity type prescribed by regulations made under this Act, the proponent holds the carbon sequestration property entitlement.

(5) A person who disagrees with a decision of the Director under subsection (3) may, within 21 days of the decision, appeal to the Court.

(6) If the Director grants consent to the application, the Director must immediately issue a conversion statement to the proponent which sets out—

- (a) the number of emission reduction units issued for the nominated project, programme or activity that must be cancelled from a foreign account; and
- (b) the equivalent number of Fijian Mitigation Outcome Units that will be issued to the nominated Registry account.

(7) The proponent must provide evidence to the Director of the cancellation of the number of emission reduction units set out in the conversion statement.

(8) As soon as practicable after the Director receives evidence of the cancellation of the number of emission reduction units set out in the conversion statement from a foreign account, the Director must issue the number of Fijian Mitigation Outcomes Units set out in the conversion statement to the nominated Registry account.

Emissions reduction projects, programmes and activities for the purposes of Article 6 of the Paris Agreement

57.—(1) A person who registers, conducts or otherwise operates an emissions reduction project, programme or activity in Fiji for the purposes of Article 6 of the Paris Agreement without the consent of the Director commits an offence and is liable on conviction to a fine not exceeding \$750,000.

(2) For the avoidance of doubt, subsection (1) only applies to an emissions reduction project, programme or activity in Fiji—

- (a) to the extent that the project, programme or activity is registered, conducted or otherwise operated for the purposes of Article 6 of the Paris Agreement; and
- (b) if a project, programme or activity was first registered and conducted for purposes other than Article 6 of the Paris Agreement, including as a Fijian Emissions Reduction Project, Programme or Activity in accordance with this Act, subsection (1) will only apply from the date the project, programme or activity was registered, conducted or otherwise operated for the purposes of Article 6 of the Paris Agreement.

(3) A person may apply to the Director for the Director's consent for the proponent to register, conduct or otherwise operate an emissions reduction project, programme or activity in Fiji for the purposes of Article 6 of the Paris Agreement.

(4) If the application involves forests, blue carbon or other project, programme or activity type prescribed by regulations made under this Act, the applicant must hold the carbon sequestration property right for the land on which the emissions reduction project, programme or activity is proposed to be conducted.

(5) The Director must determine, in writing, the application within 60 days of receiving the application by either—

- (a) granting consent for some or all of the matters which are the subject of the application, with or without conditions; or

- (b) refusing consent to the application.
- (6) The Director may only grant consent to the application if he or she is satisfied that the project, programme or activity—
- (a) complies with this Act and regulations made under this Act;
 - (b) is consistent with Fiji's NDC, current carbon budget and the long term emissions reduction target;
 - (c) is consistent with and will be accounted for in accordance with any rules, modalities and guidance developed by the CMA for the purposes of Articles 6 and 13 of the Paris Agreement; and
 - (d) any emissions reduction units, including ITMOs, that are issued in relation to the project, programme or activity will be given a unique serial number and will be properly recorded and tracked in the Registry, or if the Registry is not yet operational, provision is made for the subsequent proper recording in the Registry.
- (7) The Director must consult with the Conservator of Forests before giving consent in relation to a project, programme or activity involving forests.
- (8) A person may, appeal the decision of the Director to the Court within 21 days of the decision.
- (9) The Director must record the approval of a project, programme or activity under this section in the Registry, and give emissions reduction units, including ITMOs, issued in relation to an emissions reduction project, programme or activity approved under this section a unique serial number that allows them to be registered and tracked by the Registry.
- (10) The Director may revoke the approval of a project, programme or activity under this section in circumstances where—
- (a) the Director becomes aware of false or misleading information provided to the Director in relation to the project, programme or activity;
 - (b) the Director becomes aware of fraudulent or criminal conduct associated with the project, programme or activity or the units issued for the project, programme or activity; or
 - (c) the project, programme or activity fails to meet requirements prescribed by regulations made under this Act for the purposes of this Part.

International transfer of Fijian Mitigation Outcome Units

58.—(1) In accordance with this Act, the Director may develop standards and guidelines for the international transfer of Fijian Mitigation Outcome Units.

- (2) A person who, without the consent of the Director—
- (a) transfers Fijian Mitigation Outcome Units to a foreign account; or

- (b) transfers Fijian Mitigation Outcome Units internationally and for the purposes of Article 6 of the Paris Agreement,

commits an offence and is liable on conviction to a fine not exceeding \$750,000.

- (3) A person may apply to the Director for the international transfer of—

- (a) Fijian Mitigation Outcome Units to a foreign account; or
- (b) Fijian Mitigation Outcome Units for the purposes of Article 6 of the Paris Agreement.

- (4) The application must set out—

- (a) the account number of the relevant Registry account held by the applicant; and
- (b) such other information as is specified in the regulations.

- (5) The Director must determine, in writing, the application within 30 days of receiving the application by either—

- (a) granting consent for some or all of the matters which are the subject of the application, with or without conditions; or
- (b) refusing consent to the application.

- (6) The Director may only grant consent to an application if it is satisfied that the international transfer—

- (a) complies with this Act and any regulations made under this Act;
- (b) is consistent with Fiji's NDC;
- (c) is consistent with any policy, guidelines, standards or procedures adopted by the Government for the transfer and use of ITMOs and the international transfer of Fijian Mitigation Outcome Units in accordance with the Paris Agreement or any other international agreements to which Fiji is a Party including with respect to avoiding double counting; and
- (d) is consistent with and will be accounted for in accordance with any rules, modalities and guidance developed by the CMA for the purposes of Articles 6 and 13 of the Paris Agreement.

- (7) A person may appeal the decision of the Director to the Court within 21 days of the decision.

- (8) The Director must record the approval of an international transfer under this section in the Registry in accordance with this Act and any regulations made under this Act.

Emissions reduction projects, programmes or activities that are not designed to generate emissions reduction units

59. Nothing in this Part is intended to limit the ability of persons to undertake projects, programmes or activities that result in emissions reductions but are not designed to generate emissions reduction units.

Transactions under international REDD+ programmes

60.—(1) Where the Government participates in any transaction under an international REDD+ programme, the Minister is to be taken to have the authority of the person who owns the registered carbon sequestration property right under section 45(2) to sell and transfer all carbon sequestered by the forest including in the form of emissions reductions, Fijian Mitigation Outcome Units or carbon sequestration resulting from that programme provided that—

- (a) the Minister has the prior and informed consent of the iTaukei Land Trust Board, if applicable;
- (b) the Minister has the prior and informed consent of any other person who owns the registered carbon sequestration property right with respect to the land that is included in the proposed REDD+ transaction, if applicable;
- (c) the Government compensates the iTaukei Land Trust Board, if applicable, and any other landowner with forest carbon or person who owns a registered carbon sequestration property right included in the transaction under an approved benefits sharing plan;
- (d) the Minister has considered the market value of the emissions reductions or Fijian Mitigation Outcome Units at the time of evaluating the proposed transaction and the impact such a transaction will have on Fiji's NDC; and
- (e) any other necessary arrangements with the landowner and person who owns the registered carbon sequestration property right under section 45(2) are entered into.

(2) The Minister responsible for forests, in consultation with the Minister responsible for lands, may approve a benefit sharing plan for any transaction under international REDD+ programmes.

(3) The benefit sharing plan must—

- (a) take into consideration matters raised by landowners, person who own the registered carbon sequestration property right under section 45(2), communities and other stakeholders in response to public consultations on the plan;
- (b) equitably and transparently recognise and reward landowners, person who own the registered carbon sequestration property right under section 45(2), communities and other stakeholders for their contribution to the emissions reductions achieved under the programme, including women and minority groups;
- (c) clearly identify the beneficiaries of the plan;
- (d) establish a mechanism for the distribution of payments for verified emissions reductions; and

- (e) identify the nature of the benefits to be distributed under the plan, including whether they are monetary or non-monetary benefits.

(4) Notwithstanding any other provisions in this Act, any transaction carried out in accordance with this section is to be carried out on terms agreed between the parties to the transaction, provided that any such transactions are recorded and accounted for in the Registry.

Fijian Registry

61.—(1) This section establishes the *Fijian Registry*.

(2) The Director must keep and maintain the Registry by electronic means.

(3) The Director must make the Registry publicly accessible online.

(4) The purposes of the Registry are as follows—

- (a) to be a registry for emissions reduction projects, programmes and activities;
- (b) to be a registry for *Fijian Mitigation Outcome Units*;
- (c) to be a registry for emissions reduction units issued under an approved international emissions reduction standard in relation to an emissions reduction project, programme or activity in Fiji; and
- (d) to be Fiji's national registry for any incoming *ITMOs* from another country or outgoing *Fijian Mitigation Outcome Units* to another country.

(5) An account kept in the name of a person is to be known as a Registry account of the person.

(6) Each Registry account is to be identified by a unique number, to be known as the account number of the Registry account.

(7) The Director must publish the following information on the Registry as soon as practicable after the end of each financial year—

- (a) the total number of *Fijian Mitigation Outcome Units* issued in respect of each *Fijian Emissions Reduction Project, Programme and Activity* for that financial year;
- (b) the total number of *ITMOs* or other emissions reduction units issued in relation to each project in Fiji that is operated for the purposes of Article 6 of the Paris Agreement for that financial year; and
- (c) the total number of emissions reduction units issued in accordance with approved international emissions reduction standards in relation to projects in Fiji for that financial year.

Information-gathering powers

62.—(1) If the Director believes on reasonable grounds that a person has information or a document that is relevant to the operation of this Part or the associated provisions, the Director may, by written notice given to the person, require the person—

- (a) to give to the Director, within the period and in the manner and form specified in the notice, any such information; or
- (b) to produce to the Director, within the period and in the manner specified in the notice, any such documents.

(2) A person who does not comply with a requirement under subsection (1) within the period specified in the notice to the extent that the person is capable of doing so commits an offence and is liable on conviction to a fine not exceeding \$750,000.

Audits

63. If a person is, or has been, the proponent of an emissions reduction project, programme or activity in Fiji and the Director has reasonable grounds to suspect that the person has contravened, is contravening, or is proposing to contravene, this Part or the associated provisions, the Director may, by written notice given to the person, require the person to appoint an independent auditor to—

- (a) carry out an audit on one or more aspects of the person’s compliance with this Part or the associated provisions;
- (b) give the person a written report setting out the results of the audit;
- (c) give the Director a copy of the audit report on or before the day specified in the notice.

Fraudulent conduct

64.—(1) If a person is convicted of an offence relating to fraudulent conduct in Fiji, and the Court is satisfied that the person was issued emissions reduction units, and the issue of those units was directly or indirectly attributable to the commission of the offence, the Court may order the person to cancel a specified number of emissions reduction units by a specified time.

(2) The number of emissions reduction units that the Court orders a person to cancel must not exceed those issued to the person that were directly or indirectly attributable to the commission of the offence.

**PART 11—CLIMATE CHANGE ADAPTATION AND RESILIENT
DEVELOPMENT**

Climate change is a threat to the rights and freedom of Fijians

65. This Act recognises that climate change is a threat to the rights and freedoms recognised in Chapter 2 of the Constitution, and in particular—

- (a) the right to a clean and healthy environment;
- (b) the right to adequate food and water;

- (c) the right to health;
- (d) the rights of children and persons with disabilities;
- (e) the right to housing and sanitation; and
- (f) the right to reasonable access to transportation.

National Adaptation Plan Steering Committee

66.—(1) This section establishes the National Adaptation Plan Steering Committee.

(2) The governance, membership, operation, frequency of meetings and reporting procedures of the NAP Steering Committee must be in accordance with the NAP Steering Committee Terms of Reference.

(3) The Minister must promote gender balance when appointing members of the NAP Steering Committee.

(4) The NAP Steering Committee must meet as and when instructed by the Minister or at least every 5 years for the purpose of reviewing the NAP and performing any other functions prescribed by regulations made under this Act.

National Adaptation Plan

67.—(1) The NAP Steering Committee must prepare successive NAPs, that may address—

- (a) comprehensive risk management;
- (b) water resources;
- (c) agriculture, forestry, fishing and aquaculture;
- (d) ecosystems and biodiversity;
- (e) transportation and communication infrastructure;
- (f) land-use planning and urban development;
- (g) health and public health infrastructure;
- (h) marine and terrestrial pollution reduction objectives;
- (i) adaptation and mitigation co-benefits resulting from environmental conservation activities;
- (j) natural resource management measures that support and enhance local livelihoods;
- (k) climate information management and services, including the capacity to generate, manage, disseminate and use climate change information;
- (l) resource mobilisation, including the accumulation and coordination of financial and non-financial resources during the design, implementation and monitoring of adaptation measures as well as any associated capacity building;

- (m) climate change awareness and knowledge, including enhancing understanding of climate change by increasing the flow of climate information to relevant adaptation stakeholders;
- (n) horizontal integration, including the mainstreaming of climate change issues into national-level development planning processes so that they are suitably climate-informed; and
- (o) vertical integration, including the integration of environmental and climate risk into sub-national development planning processes.

(2) The NAP Steering Committee, when developing and reviewing successive NAPs, must conduct public consultations in a manner that encourages the participation of a diverse range of stakeholders, including the private sector, civil society organisations, youth organisations or representatives, and vulnerable and at-risk groups and communities.

(3) The NAP Steering Committee, in developing, reviewing and updating successive NAPs, is to be informed by—

- (a) the objectives, principles, rights, powers and obligations established under this Act;
- (b) the rights and freedoms recognised in Chapter 2 of the Constitution, and in particular those rights listed in section 65;
- (c) the data collated and submitted by the Minister, the Director and the Division in satisfaction of monitoring and reporting requirements under the Convention, the Paris Agreement, the Convention on Biological Diversity and any voluntary reporting in relation to the SDGs;
- (d) the best available scientific knowledge about climate change impacts and adaptation, including relevant information published by the IPCC;
- (e) any integrated risk scenarios developed in accordance with this Act;
- (f) technology and technological innovations relevant to climate change adaptation;
- (g) economic circumstances, in particular the likely impact of the NAP on—
 - (i) the economy;
 - (ii) the maintenance of competition in particular sectors of the economy;
 - (iii) small and medium enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
- (h) social circumstances, in particular the likely impact of strategies and policies on the marginalised and disadvantaged communities;

- (i) fiscal impacts especially in relation to the avoidance of future costs;
- (j) environmental circumstances, in particular the likely impact of the NAP on land and ocean biodiversity and ecosystem services;
- (k) international law and policy relating to climate change;
- (l) traditional knowledge of all Fijians relating to climate change adaptation; and
- (m) matters raised during public consultations conducted for the purpose of this section.

(4) The NAP Steering Committee may call upon relevant technical expertise from within the civil service or independent experts appointed in accordance with section 9(1)(d) to support committee meetings and form technical working groups as needed to progress decision-making.

(5) The NAP Steering Committee may convene consultative groups or national stakeholder workshops involving government, non-government, private sector, civil society and youth representatives, and representatives from vulnerable and at-risk groups and communities, to inform both the review of progress under the NAP and the development of revised actions.

(6) The NAP Steering Committee must prepare—

- (a) a report for the Minister outlining the findings of the review of the NAP and contains recommendations for how the NAP should be updated; and
- (b) an updated NAP in accordance with the recommendations in the report prepared in accordance with paragraph (a).

(7) The Minister must consider the recommendations of the NAP Steering Committee when deciding whether or not to approve the updated NAP and must publish reasons for any failure to adopt a recommendation of the NAP Steering Committee.

(8) The Director must make the updated NAP and the reports of the NAP Steering Committee publicly available online, including on the Information Platform.

Minister has the power to introduce and implement regulations, policies, measures, adaptation planning processes and actions

68.—(1) The Minister has the power to introduce and implement regulations, policies, measures, adaptation planning processes and actions with the purpose of increasing Fiji's resilience to climate change and ability to adapt to climate change.

(2) The Minister must have regard to the following factors when making and implementing regulations, policies, measures, adaptation planning processes and actions under subsection (1)—

- (a) the objectives and principles of this Act; and

- (b) the alignment of the regulations, measures, adaptation planning processes or actions with Fiji’s current National Development Plan, NDC, NCCP and NAP.

(3) The Director must record any regulations, policies, measures, adaptation planning processes and actions implemented in accordance with this section on the Adaptation Registry.

Integrated risk scenarios

69.—(1) The Director, in consultation with the Fiji Meteorological Service and other relevant stakeholders, may build or commission work to consider, analyse and consult upon interdisciplinary information, data, trends and projections that can be integrated to produce intelligence on potential future risk scenarios.

(2) These integrated risk scenarios must—

- (a) model the potential and projected physical impacts of climate change as well as the way these impacts interact with other projected risks and socio-economic factors and considerations over different time horizons;
- (b) support national, sub-national and localised vulnerability, exposure and sensitivity assessments as required; and
- (c) assist efforts to assess adaptive management options, conduct thresholds analysis and improve capacity for system-based approaches to achieving resilient development objectives.

(3) Integrated risk scenarios must be developed based on the best available scientific knowledge about climate change, including relevant information published by the IPCC, and the NAP.

(4) The Director must present any integrated risk scenarios to the Committee and make them publicly available online, including on the Information Platform.

Audit of public infrastructure and physical assets

70.—(1) The Minister may, in close co-ordination with relevant ministries and State entities, conduct an audit of existing public infrastructure and physical assets that are at risk from climate change, including—

- (a) any applicable infrastructure or asset management strategies;
- (b) the value of public infrastructure and physical assets, including the accounting value and the replacement value;
- (c) the features of infrastructure and physical assets that influence its level of vulnerability; and
- (d) the extent to which infrastructure and physical assets are climate resilient, including physical, social and environmental resilience to the impacts of climate change, with reference to any integrated risk scenarios developed in accordance with this Act.

(2) The Minister may maintain a register of all existing public infrastructure and physical assets which records the data collected by the audit conducted in accordance with subsection (1) and any repairs carried out on public infrastructure and physical assets for the purpose of increasing resilience to the impacts of climate change.

Climate resilient buildings and infrastructure

71.—(1) In addition to sections 19, 22 and 23, all ministers, State entities and other persons making decisions relating to proposals for new infrastructure must—

- (a) direct that a climate risk and resilience assessment be conducted on the proposal with reference to any integrated risk scenarios developed in accordance with this Act and other relevant risk scenarios;
- (b) consider the climate risk and resilience assessment prepared in accordance with paragraph (a) when deciding whether or not to approve the proposal; and
- (c) make a decision to approve or not approve the proposal that promotes and is consistent with the climate risk and resilience assessment prepared in accordance with paragraph (a).

(2) For the avoidance of doubt, proposals for new infrastructure include proposals for infrastructure that must be replaced due to the impacts of natural disasters and the adverse impacts of climate change.

(3) The Minister, in consultation with the Committee, must prepare and issue guidelines on how climate risk and resilience assessments are to be conducted in accordance with this section.

National Building Code

72.—(1) The Minister responsible for health, with the assistance of the Director and the Minister responsible for infrastructure as required, must review and if necessary amend the content, expand the scope and scale up the implementation and enforcement of the National Building Code immediately upon the commencement of this section and every 5 years thereafter for the purpose of increasing the climate resilience of Fiji's buildings and the alignment of the National Building Code with the objectives and principles of this Act.

(2) The Minister responsible for health, in reviewing and amending the National Building Code, must take into consideration—

- (a) the objectives and principles of this Act, in particular the objective to provide for the implementation, operation and administration of regulations, measures and actions that build climate resilience and enhance adaptive capacity to the impacts of climate change, with respect to Fiji's communities, built environment and ecosystems; and
- (b) the mitigation and adaptation objectives expressed in the National Development Plan, NDC, NCCP, NAP and any other relevant policy instruments.

Fijian Adaptation Registry

- 73.**—(1) This section establishes the Fijian Adaptation Registry.
- (2) The Director must keep and maintain the Adaptation Registry.
- (3) The Adaptation Registry is to be maintained by electronic means and publicly accessible online.
- (4) The purpose of the Adaptation Registry is to be a registry for adaptation projects in Fiji.

Voluntary reporting on adaptation projects

- 74.**—(1) A person who implements an adaptation project in Fiji may provide reports to the Director.
- (2) The report may include—
- (a) a description of the project;
 - (b) the social, economic and environmental benefits of the project;
 - (c) the contribution of the project to objectives set out under the NAP or the SDGs; and
 - (d) the verified outcomes of the project.

- (3) If the Director considers that the report is in relation to an adaptation project in Fiji, the Director must register the Project and publish the report on the Adaptation Registry.

PART 12—CLIMATE DISPLACEMENT AND RELOCATION

Fijian Taskforce on the Relocation and Displacement of Communities Vulnerable to the Impacts of Climate Change

- 75.**—(1) This section establishes the Fijian Taskforce on the Relocation and Displacement of Communities Vulnerable to the Impacts of Climate Change.
- (2) The governance, membership, operation, frequency of meetings and reporting procedures of the Fijian Taskforce on Relocation and Displacement must be in accordance with the Fijian Taskforce on Relocation and Displacement’s Terms of Reference.

Fijian Planned Relocation Guidelines

- 76.**—(1) The Minister, with the assistance of the Fijian Taskforce on Relocation and Displacement, must prepare successive Fijian Planned Relocation Guidelines.
- (2) The Minister, with the assistance of the Fijian Taskforce on Relocation and Displacement, must operationalise the Fijian Planned Relocation Guidelines through developing standard operating procedures which enable pro-active processes for addressing the risk of climate and disaster driven displacement.
- (3) The Minister, with the assistance of the Fijian Taskforce on Relocation and Displacement, must review and amend the Fijian Planned Relocation Guidelines and the standard operating procedures when the Minister considers necessary.

Relocation of at-risk communities

77.—(1) The Minister, with the support of the Fijian Taskforce on Relocation and Displacement, is responsible for relocating and supporting at-risk communities in accordance with the following objectives—

- (a) to allow for the orderly, respectful and dignified relocation of at-risk communities;
- (b) to provide for a minimum standard of protection and assistance to persons at risk of, or affected by, disasters and climatic change, including the most vulnerable persons and taking into consideration the special needs and circumstances of persons living with disabilities, the elderly, sick, women and children;
- (c) for planned relocations, provide a coordination mechanism to enable all affected stakeholders to participate in decisions affecting communities;
- (d) to relocate at-risk communities only when other adaptation measures as set out in the NAP have been exhausted;
- (e) to relocate at-risk communities only with the full free and prior informed consent of the communities, following inclusive and gender responsive consultation and participatory processes;
- (f) to ensure that relocation sites—
 - (i) are on land that is least vulnerable to climate change impacts and capable of supporting the current and future needs of the at-risk community and any existing or host communities; and
 - (ii) have similar or better housing, infrastructure, social infrastructure and other social and financial support systems, employment opportunities than the community from which persons were relocated, and can meet the current and future sustainable development needs of both the existing or host community and the at-risk community that is to be relocated to that site;
- (g) if an at-risk community is relocated to land that supports existing communities, the rights and concerns of those existing or host communities are taken into account and respected;
- (h) where possible and desirable, infrastructure is relocated from the at-risk community to the relocation site;
- (i) relocation is to be non-discriminatory; and
- (j) the adoption of approaches which—
 - (i) are human-centred including prioritising community needs from the bottom up;

- (ii) support the continuation of livelihoods;
- (iii) are human rights based; and
- (iv) are pre-emptive.

(2) Prior to the Minister making a decision on relocating at-risk communities, the Fijian Taskforce on Relocation and Displacement must—

- (a) consult affected persons or communities and communicate the rights of those persons or communities and the scientific and policy justification for the proposed relocation;
- (b) conduct a public hearing whereby the affected persons or communities have the right to legal representation; and
- (c) provide a record of all views raised during the consultations and public hearing to the Minister.

(3) When conducting consultations and public hearings, the Minister must encourage the participation of vulnerable persons or communities and ensure that their views are taken into account.

(4) When making a decision whether or not to relocate an at-risk community, the Minister must—

- (a) take into account all views raised during the consultations and public hearing;
- (b) take into account any recommendations of the Fijian Taskforce on Relocation and Displacement;
- (c) consider the availability of appropriate financial resources to facilitate relocation;
- (d) ensure that the decision is consistent with, and following the processes and requirements established under, the Fijian Planned Relocation Guidelines and any supporting standard operating procedures; and
- (e) ensure that the decision is consistent with the principles in subsection (1).

Trust Fund for the Planned Relocation of Communities in Fiji that are adversely affected by climate change

78. The Minister may use monies in the Climate Relocation of Communities Trust Fund established under section 3 of the Climate Relocation of Communities Trust Fund Act 2019 for the purposes of this Part.

PART 13—OCEANS AND CLIMATE CHANGE

Healthy oceans for a healthy climate

79. This Act recognises that—

- (a) oceans are critical to the identity and livelihoods of the people of Fiji and the Pacific island peoples;

- (b) oceans and maritime boundaries are critical to Fiji’s sovereignty and the exercise of its sovereign rights;
- (c) climate change presents a number of risks to the marine environment, including coral bleaching, ocean acidification, loss of marine biodiversity and de-oxygenation;
- (d) healthy oceans are necessary to delivering a healthy climate and oceans must be protected through urgent, ambitious and collaborative action on climate change and the reduction of other anthropogenic stressors such as plastics pollution, land-based sedimentation and unsustainable fishing practices;
- (e) the resilience of oceans must be strengthened, including by improving the resilience of marine ecosystems, mangroves, seagrasses and coral reefs, strengthening land-sea management and sustainably managing the marine resources within Fiji’s maritime boundaries; and
- (f) oceans play an important role in climate change mitigation.

Permanence of Fiji’s maritime boundaries and maritime zones

80.—(1) This Act recognises the permanence of Fiji’s maritime boundaries and maritime zones and maintains the rights and entitlements that flow from Fiji’s maritime zones under Articles 3, 8, 33, 49, 57 and 76 of UNCLOS notwithstanding the effects of climate change and sea level rise.

(2) For the purposes of subsection (1), the list of geographical coordinates submitted to the Secretary-General of the United Nations pursuant to UNCLOS are, without reduction, to be maintained as Fiji’s permanent maritime boundaries, notwithstanding the effects of climate change and sea level rise.

Ocean sustainability targets

81.—(1) This section sets Fiji’s long term ocean sustainability target, which is for Fiji’s internal waters, archipelagic waters, territorial seas, contiguous zone and exclusive economic zone to be 100% sustainably and effectively managed.

(2) This section sets Fiji’s 2030 marine protected area target, which is for 30% of Fiji’s internal waters, archipelagic waters, territorial seas, contiguous zone and exclusive economic zone to be designated as a marine protected area by 2030.

(3) The Minister must take all reasonable steps to promote the achievement of the long term ocean sustainability target and the 2030 marine protected area target through the development and implementation of the National Ocean Policy.

National Ocean Policy Steering Committee

82.—(1) This section establishes the National Ocean Policy Steering Committee.

(2) The Minister must appoint an employee of the ministry responsible for climate change to be the chairperson of the National Ocean Policy Steering Committee.

(3) The National Ocean Policy Steering Committee is to be constituted by—

- (a) representatives of the ministries responsible for finance, environment, maritime development, education, defence, lands, iTaukei affairs, foreign affairs, fisheries, transport, the Office of the Prime Minister and the Office of the Solicitor-General as appointed by the ministers responsible for those ministries and offices;
- (b) a representative from the Fijian Navy, as appointed by the Commander of the Republic of Fiji Military Forces; and
- (c) 2 scientific advisors from academic institutions with relevant expertise, as appointed by the Chair of the National Ocean Policy Steering Committee.

(4) Ministers must promote gender balance when appointing representatives to the National Ocean Policy Steering Committee.

(5) The National Ocean Policy Steering Committee must meet as and when instructed by the Minister or every 5 years for the purpose of reviewing the National Ocean Policy.

National Ocean Policy

83.—(1) The National Ocean Policy Steering Committee must prepare successive National Ocean Policies.

(2) The purpose of the National Ocean Policy is to guide all government policies in relation to fisheries, marine resources, maritime issues, marine scientific research and any other issues related to the use, management and conservation of Fiji’s maritime waters.

(3) The National Ocean Policy Steering Committee must review and if necessary update the National Ocean Policy when instructed by the Minister or at least every 5 years.

(4) The National Ocean Policy Steering Committee, when developing and reviewing successive National Ocean Policies, must conduct public consultations in a manner that encourages the participation of a diverse range of stakeholders, including the private sector, civil society organisations, youth organisations or representatives, and vulnerable and at-risk groups and communities.

(5) The National Ocean Policy Steering Committee, in developing, reviewing and updating successive National Ocean Policies, is to be informed by—

- (a) the long term ocean sustainability target and the 2030 marine protected area target;
- (b) the objectives, principles, rights, powers and obligations established under this Act;
- (c) the best available scientific knowledge about climate change and other anthropogenic impacts on oceans and about the climate change mitigation potential of oceans, including relevant information published by the IPCC;

- (d) regional and international best practices and developments related to maintaining and reinforcing Fiji's maritime boundaries pursuant to section 80;
- (e) the data collated and submitted by the Minister, the Director and the Division in satisfaction of monitoring and reporting requirements under the Convention, the Paris Agreement, the Convention on Biological Diversity and any voluntary reporting in relation to the SDGs;
- (f) clean technology and technological innovations relevant to the sustainable management of oceans;
- (g) economic circumstances, in particular the likely impact of the National Ocean Policy on the following—
 - (i) the economy;
 - (ii) the maintenance of competition in particular sectors of the economy;
 - (iii) small and medium enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
- (h) social circumstances, in particular the likely impact of strategies and policies on the marginalised and disadvantaged communities;
- (i) fiscal impacts especially in relation to the avoidance of future costs;
- (j) environmental circumstances, in particular the likely impact of the National Ocean Policy on land and ocean biodiversity and ecosystem services;
- (k) international law and policy relating to climate change and oceans;
- (l) traditional knowledge of all Fijians relating to the sustainable management of oceans; and
- (m) matters raised during public consultations conducted for the purpose of this section.

(6) The National Ocean Policy Steering Committee may call upon relevant technical expertise from within the civil service or independent experts appointed in accordance with section 9(1)(d) to support committee meetings and form technical working groups as needed to progress decision-making.

(7) The National Ocean Policy Steering Committee may convene consultative groups or national stakeholder workshops involving government, non-government, private sector, civil society and youth representatives, and representatives from vulnerable and at risk groups and communities, to inform both the review of progress under the National Ocean Policy and the development of revised actions.

(8) The National Ocean Policy Steering Committee must prepare—

- (a) a report for the Minister which outlines the findings of the review of the National Ocean Policy and contains recommendations for how the National Ocean Policy should be updated; and
- (b) an updated National Ocean Policy in accordance with the recommendations in the report prepared in accordance with paragraph (a).

(9) The Minister must consider the recommendations of the National Ocean Policy Steering Committee when deciding whether or not to approve the updated National Ocean Policy and must publish reasons for any failure to adopt a recommendation of the National Ocean Policy Steering Committee.

(10) The Director must make the updated National Ocean Policy and the report of the National Ocean Policy Steering Committee publicly available online, including on the Information Platform.

Minister has the power to introduce and implement regulations, policies, measures and actions

84.—(1) The Minister may make and implement regulations, policies, measures and actions that promote an evidence-based approach to the conservation and restoration of Fiji’s internal waters, archipelagic waters, territorial seas, contiguous zone and exclusive economic zone and coastal environments, including—

- (a) protecting stores of blue carbon;
- (b) sustainable management of oceans and reducing anthropogenic stresses on marine and coastal ecosystems;
- (c) putting in place measures to maintain and reinforce Fiji’s maritime boundaries pursuant to section 80; and
- (d) fiscal incentives and education campaigns supporting alternatives to non-biodegradable and non-ecofriendly materials.

(2) Regulations, policies, measures and actions introduced and implemented under subsection (1) must use a science-based and data-driven approach.

(3) The Minister must consult with the ministers responsible for environment and fisheries on the development of regulations, policies, measures and actions under this section to the extent that they may have an impact on the management of fisheries.

Mitigation potential of oceans

85.—(1) The Minister may make regulations and policies and implement measures and actions to enhance the mitigation potential of oceans, including—

- (a) enhancing blue carbon;
- (b) developing offshore renewable energy generation; and
- (c) increasing energy efficiency in maritime services.

(2) The Minister must consult with the ministers responsible for transport, forests, energy and fisheries on the development of regulations policies, measures and actions under this section to the extent that they may have an impact on the management of fisheries.

Minister may direct Fiji Meteorological Service or any State entity to prepare studies

86. The Minister may direct the Fiji Meteorological Service or any State entity to prepare and regularly update studies on the impact of climate change on oceans and the ability of oceans to sustainably provide resources for Fijians for commercial, subsistence and other purposes.

PART 14—SUSTAINABLE FINANCING

Powers of the Minister responsible for finance

87.—(1) The Minister responsible for finance may—

- (a) act as a conduit between donors, climate funds, and sector recipients of climate finance to help support a collaborative approach to proposal design, funding alignment with priorities, and efficient implementation arrangements;
- (b) work closely with the national budget process and relevant offices within the ministry responsible for finance to implement climate budget coding and tracking systems and the incorporation of such systems in to the Government’s overall public financial management system;
- (c) carry out the reporting, monitoring and evaluation of domestic climate finance sources including ECAL, private sector sources, and insurance initiatives and make any such reports publicly available on the Information Platform;
- (d) actively oversee Fiji’s engagement with the Green Climate Fund, Adaptation Fund and multilateral development banks to facilitate and enhance Fiji’s access to sustainable climate finance flows; and
- (e) review donor engagement and coordination arrangements to enhance efficiency, complementarity, and the leveraging of co-benefits in alignment with the NCCP.

(2) The Minister responsible for finance may delegate the role of national focal point or national designated authority to any international cooperation agency responsible for mobilising or distributing climate finance and may divide any responsibilities between the permanent secretary responsible for climate change and the Director as necessary to avoid any conflicts of interest.

Incentives for the promotion of climate change initiatives

88.—(1) The Minister responsible for finance may, in accordance with the Financial Management Act 2004, grant to persons that—

- (a) encourage and put in place measures for the mitigation of climate change including reduction of greenhouse emissions, use of renewable energy and energy efficiency;

- (b) put in place measures to adapt and improve Fiji's resilience to climate change; or
- (c) are involved in the conduct of accredited training in programmes that are aimed at mitigating and adapting to climate change,

such incentives as may be necessary for the advancement of such measures and activities designed for the mitigation of and adaptation to climate change.

(2) The Minister responsible for finance must, if granting incentives to persons in accordance with subsection (1), in regulations set out the nature of the incentives, the conditions for the grant or withdrawal of such incentives and such other matter as may be necessary for the exercise of the power conferred under subsection (1), including that such incentives are non-discretionary.

(3) In granting incentives under subsection (1), the Minister responsible for finance must take into account international standards and best practice.

Accredited climate finance organisations

89.—(1) State entities or private organisations accredited to climate funds, including the Green Climate Fund, can be recipients and administrators of public or private contributions designated to be used for the implementation of measures for mitigation and adaptation to climate change with the approval of the Minister.

(2) Administrators of the State entities or private organisations in subsection (1) must monitor, evaluate, publish and communicate to the Minister and the Minister responsible for finance the results of their actions to address climate change and demonstrate the effectiveness and efficiency of their expenditure.

(3) The Minister responsible for finance may, with the support of the Director, establish guidelines for the use of climate finance, to be applied by the State entities or private organisations in subsection (1), in order to ensure strategic and complementary use of the funds that will be allocated for climate finance.

Mechanisms for climate finance

90. The Minister responsible for finance, subject to and in accordance with all written laws, may institute financial instruments and mechanisms with the purpose of implementing this Act and climate change mitigation and adaptation actions pursuant to the objectives and principles of this Act.

National climate finance strategies

91.—(1) The Minister responsible for finance, in consultation with the Reserve Bank, must develop national climate finance strategies, frameworks and approaches to support and coordinate Fiji's ongoing access to climate finance.

(2) National climate finance strategies, frameworks and approaches must address Fiji's readiness for climate finance, including appropriate governance arrangements, accounting systems, and transparency frameworks.

(3) The Minister, in consultation with the Reserve Bank, must review the national climate finance strategies and frameworks every 5 years.

PART 15—PRIVATE SECTOR TRANSITION AND ENGAGEMENT

Private sector advisory committee

92. The Minister may establish a private sector advisory committee for the following purposes—

- (a) promoting dialogue with the private sector on the implementation of this Act;
- (b) promoting the sharing of knowledge and experience between the private and public sectors;
- (c) developing and disseminating resources to assist the private sector in complying with this Act; and
- (d) promoting and creating an enabling environment for public private partnerships that are consistent with achieving the objectives and principles of this Act.

Guidance and adopting best practice

93.—(1) Within 12 months of the commencement of this section, the Minister must develop and publish guidance materials for the purpose of assisting directors or other officers of a company, managed investment schemes, the Fiji National Provident Fund Board, licensed financial institutions and the Reserve Bank to fulfil their obligations under this Part.

(2) In developing such guidance materials, the Minister must have regard to industry best practice including the recommendations of the Financial Stability Board’s Task Force on Climate-related Financial Disclosures.

Directors must consider and evaluate climate change risks and opportunities

94.—(1) In exercising reasonable care and diligence under section 106(1) of the Companies Act 2015, directors or other officers of a company must consider and evaluate climate change risks and opportunities to the extent they are foreseeable and intersect with the interests of the company.

(2) For the purposes of this Part, climate change risks include—

- (a) the physical risks associated with climate change, including both acute risks (for example extreme weather events) and chronic risks (for example rising temperatures, rising sea levels and changes in water availability, sourcing and quality) that may affect, for example, a company’s premises and other assets, operations, supply chains, transport needs and employee safety;
- (b) the transition risks associated with changes that may occur in the process of adjusting towards a low-carbon economy including policy and legal changes, technological changes, market changes and reputation risks associated with changing customer or community perceptions;

- (c) the liability risk stemming from the failure to consider and address the physical risks and transition risks; and
 - (d) the economic and financial loss or impact arising from paragraphs (a), (b) and (c).
- (3) For the purposes of subsection (1), climate change opportunities may include—
- (a) reducing operating costs by improving efficiency across premises, operations and processes;
 - (b) saving on annual energy costs through shifting energy usage towards low emission energy sources;
 - (c) capitalising on shifting consumer and producer preferences by innovating and developing new low-emission products and services;
 - (d) opportunities in new markets or types of assets; and
 - (e) enhancing climate resilience to climate change risks thus avoiding future economic costs.

Fiji National Provident Fund Board must consider and evaluate climate change risks and opportunities

95. In exercising its duties under section 9 of the Fiji National Provident Fund Act 2011, the Fiji National Provident Fund Board must consider and evaluate climate change risks and opportunities to the extent they are foreseeable and intersect with the interests of each fund and the Board.

Disclosure of financial risks of climate change and measures adopted to reduce them by companies and managed investment schemes

96.—(1) All companies and managed investment schemes that are required to prepare financial statements and a directors' report under section 388 of the Companies Act 2015 must disclose, in their financial statements and directors' report—

- (a) any material financial risks to the company or managed investment scheme arising from climate change risks and climate change opportunities;
- (b) measures adopted by the company or managed investment scheme to reduce its exposure to these material financial risks;
- (c) how consideration of climate change risks are integrated into investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of the activities of the company or managed investment scheme activities and of the use of goods and services it produces and the extent to which the company or managed investment scheme complies with the long-term temperature goal in Article 2 of the Paris Agreement.

(2) For the purposes of this Part, the financial risks arising from climate change risks and climate change opportunities may include—

- (a) impacts on revenue arising from the impacts of climate change risks on demand for products and services;
- (b) impacts on expenditure due to costs arising from climate change risks;
- (c) impacts on the valuation of assets and liabilities arising from the impacts of changes in policies, technology and market dynamics on supply and demand; and
- (d) impacts on capital and financing, including debt and equity structure (for example by increasing debt levels to compensate for reduced operating cash flows or for new capital expenditures) and the ability to raise new debt and refinance.

Disclosure of financial risks of climate change and measures adopted to reduce them by the Fiji National Provident Fund Board

97.—(1) The Fiji National Provident Fund Board, when preparing financial reports in accordance with section 25 of the Fiji National Provident Fund Act 2011, must disclose in their financial reports—

- (a) any material financial risks to each fund and the Board arising from climate change risks and climate change opportunities;
- (b) measures adopted by each fund and the Board to reduce its exposure to these material financial risks;
- (c) how consideration of climate change risks are integrated into investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of each fund and the Board’s activities and of the use of goods and services it produces and the extent to which each fund and the Board complies with the long-term temperature goal in Article 2 of the Paris Agreement.

(2) In this section, “fund” has the meaning given in section 4(1) of the Fiji National Provident Fund Act 2011.

Disclosure of financial risks of climate change and measures adopted to reduce them by licensed financial institutions

98. Every licensed financial institution that is required to submit statements and returns under section 26(1) of the Banking Act 1995 must disclose in their submission—

- (a) any material financial risks to the licensed financial institution arising from climate change risks and climate change opportunities;
- (b) measures adopted by the licensed financial institution to reduce its exposure to these material financial risks;

- (c) how consideration of climate change risks are integrated into investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of the licensed financial institution's activities and of the use of goods and services it produces and the extent to which the licensed financial institution complies with the long-term temperature goal in Article 2 of the Paris Agreement.

Disclosure of financial risks of climate change and measures adopted to reduce them by the Reserve Bank

99. The Reserve Bank must disclose in its annual accounts and reports of its operations transmitted to the Minister in accordance with section 56(1) of the Reserve Bank of Fiji Act 1983—

- (a) any material financial risks to the Reserve Bank arising from climate change risks and climate change opportunities;
- (b) measures adopted by the Reserve Bank to reduce its exposure to these material financial risks;
- (c) how consideration of climate change risks are integrated into investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of the Reserve Bank's activities and of the use of goods and services it produces and the extent to which the Reserve Bank complies with the long-term temperature goal in Article 2 of the Paris Agreement.

Application to entities that also carry on business in foreign jurisdictions

100. To the extent that this Part applies to entities that also carry on business in foreign jurisdictions, the requirements under sections 94 to 99 apply only in relation to the aspects of an entity's business that are carried on in Fiji.

PART 16—ENFORCEMENT

Limitation period for offences

101. No proceedings for an offence under this Act may be commenced 3 years after—

- (a) the date on which the offence was committed; or
- (b) the date on which evidence of the offence first came to the attention of the Division,

whichever is the later.

Other offences

102. A person who—

- (a) wilfully or deliberately, provides false or misleading information in a material particular if required under this Act;

- (b) wilfully or deliberately, fails to provide any document or information required under this Act; or
- (c) for the purpose of procuring anything to be done or not to be done under this Act, whether for his or her own benefit or for the benefit of any other person, wilfully or deliberately, make a statement that is false in a material particular,

commits an offence and is liable on conviction to a fine not exceeding \$750,000 or imprisonment for a term not exceeding 10 years or both.

General penalties

103. A person who commits an offence against this Act for which no penalty is provided is liable on conviction to a fine not exceeding \$750,000 or imprisonment for a term not exceeding 10 years or both.

Enforcement of this Act by third parties

104.—(1) Any person may bring proceedings in the Court for an order to remedy or restrain a breach of this Act.

(2) Proceedings under this section may be brought by a person—

- (a) on his or her own behalf; or
- (b) on behalf of himself or herself and on behalf of other persons (with their consent) having like or common interests in those proceedings.

(3) Where the Court is satisfied that a breach of this Act has been committed or that a breach of this Act will, unless restrained by order of the Court, be committed, the Court may make such order as it thinks fit to remedy or restrain the breach.

(4) The functions of the Court under this Act are in addition to and not in derogation from any other functions of the Court.

(5) For the purposes of this Part, a reference to a breach of this Act is a reference to—

- (a) a contravention of or failure to comply with this Act; and
- (b) a threatened or an apprehended contravention of or a threatened or apprehended failure to comply with this Act.

Other orders

105.—(1) The Court, when convicting a person for an offence under this Act or when making an order to remedy or restrain a breach of this Act, and having regard to the nature of the offence or the breach and the circumstances surrounding its commission, may, in addition to any penalty or order imposed, make an order prohibiting the person from doing any act or engaging in any activity or undertaking that may result in the continuation or repetition of the offence or breach—

- (a) so far as is practicable, requiring the demolition or removal of infrastructure or the reinstatement of infrastructure or land to the condition or state the infrastructure or land was in immediately before the offence or breach;

- (b) requiring the restoration, improvement or remediation of an area or the offsetting of any harm caused, including through the purchase and cancellation of Fijian Mitigation Outcome Units or other emission reduction units, with the purpose of restoring the environment to as near to its original condition with the cost to be borne by the person convicted of an offence;
- (c) directing the person to pay to the Division an amount that is to be held on trust as a refundable security for costs to ensure compliance with an order made under this section; or
- (d) requiring the person to comply with any other condition the Court considers appropriate in the circumstances.

(2) The Court, when convicting a person for an offence under this Act or when making an order to remedy or restrain a breach of this Act, and having regard to the nature of the offence or the breach and the circumstances surrounding its commission, may on the application of the victim or victims, in addition to any penalty or order imposed, order the convicted person or the person who committed the breach to pay the victim or victims—

- (a) compensation for loss or damage proved to have been suffered by the victim as a result of the act or omission; or
- (b) the cost of any preventative or remedial action proved to have been reasonably taken or caused to be taken by or on behalf of the victim or victims as a result of the act or omission.

(3) For the purposes of subsection (2), a victim may include any person.

(4) An order under subsection (1)(a) is enforceable as if it were an injunction.

(5) An order under this section relating to payment of money is enforceable as if it were a judgment debt and recoverable in a Court.

(6) If a person fails to comply with a Court order or direction made under this section relating to the restoration, improvement or remediation of an area or offsetting of any harm caused by the act or omission, the Division may undertake the restoration, improvement or remediation of the area, or offsetting of any harm caused, and the cost becomes a debt recoverable in a Court (including using the security for costs deposited on trust with the Division).

Employees protection

106. An employer must not—

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose a penalty on an employee; or
- (d) intimidate or coerce an employee,

on the basis that the employee reported a contravention of this Act.

Civil claims and damages

107.—(1) A person who has suffered loss as a result of any breach of this Act by any person may institute a civil claim for damages in a court, which may include a claim for—

- (a) economic loss resulting from the breach or from activities undertaken to prevent, mitigate, manage, clean up or remedy the breach;
- (b) loss of earnings arising from damage to any natural resources;
- (c) loss to or of any natural environment or resource; or
- (d) costs incurred in any inspection, audit or investigation undertaken to determine the nature of any pollution incident or to investigate remediation options.

(2) A claim under this section may be set off against any compensation paid under section 105(2).

Liability of companies and directors

108. If a company commits an offence under this Act, a director, officer, employee or agent of the company who directed, authorised, assented to, acquiesced in or participated in the commission of the offence also commits the offence, and is liable to the penalty prescribed for the offence, whether or not the company has been prosecuted or convicted.

Priority of penalty or damages in cases of bankruptcy

109. Notwithstanding any other written law, if a company commits an offence under this Act, penalties or damages awarded under this Act have priority over any secured or preferred claim lodged in any action for bankruptcy against the company.

PART 17—MISCELLANEOUS

Act to prevail

110. This Act has effect notwithstanding any provision of any other written law, and accordingly, to the extent that there is any inconsistency between this Act and any other written law, this Act prevails.

Regulations

111.—(1) The Minister may make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act including providing for—

- (a) Fiji's participation in schemes adopted to regulate emissions from international aviation or international shipping;
- (b) the prescribed form of an improvement notice issued in accordance with this Act;
- (c) obligations of authorised officers or inspectors to inform the responsible entity for a facility, land or premises that the responsible entity may refuse consent to enter premises in specified circumstances;

- (d) obligations of authorised officers or inspectors to make specified announcements before entering a facility, land or premises;
- (e) the responsibility of a ministry, department, statutory authority or local authority or the responsible entity for a facility, land or premises to provide an authorised officer or inspector with facilities and assistance;
- (f) the roles and responsibilities of ministries, departments, statutory authorities or any other body to support with carrying out the objectives of section 30;
- (g) limiting or reducing Fiji's GHG across the economy in accordance with section 43(1);
- (h) increasing Fiji's resilience to climate change and ability to adapt to climate change in accordance with section 68;
- (i) promoting an evidence-based approach to the conservation and restoration of Fiji's internal waters, archipelagic waters, territorial seas, contiguous zone and exclusive economic zone and coastal environments in accordance with section 84;
- (j) enhancing the mitigation potential of oceans in accordance with section 85; and
- (k) fines not exceeding \$10,000 or a term of imprisonment not exceeding 2 years or both for an offence under regulations.

(2) The Minister may, in consultation with relevant ministers, make regulations that give effect to any provision of this Act and that impose duties or obligations on any person, including State entities.

(3) The Minister may make regulations in relation to the following aspects of emissions reduction projects, programmes and activities—

- (a) project, programme or activity proponent eligibility;
- (b) guidance on satisfying the requirement to hold the legal right to carry out the project, programme or activity;
- (c) sectoral scope and type;
- (d) other project, programme or activity type for the purposes of sections 47(b), 50(2), 54(1), 55(3), 56(4) and 57(4);
- (e) criteria for the approval of Fijian Emissions Reduction Methodologies;
- (f) criteria for the approval or an emissions reduction project, programme or activity as a Fijian Emissions Reduction Project, Programme or Activity;
- (g) variation or revocation of a declaration that an emissions reduction project, programme or activity is a Fijian Emissions Reduction Project, Programme or Activity;

- (h) accounting for emissions reductions, including to ensure that there is no double counting of emissions reductions achieved by an emissions reduction project, programme or activity;
- (i) baseline setting;
- (j) crediting periods or reporting periods;
- (k) additionality of emissions reductions;
- (l) permanence of emissions reductions;
- (m) monitoring, reporting and verification of emissions reductions;
- (n) the consent of landholders and other interest holders;
- (o) registration of emissions reduction projects, programmes and activities in the Registry;
- (p) benefit sharing;
- (q) issuance of Fijian Mitigation Outcome Units;
- (r) imposing a charge or levy on the issuance of Fijian Mitigation Outcome Units;
- (s) transfer of Fijian Mitigation Outcome Units domestically and internationally, including the prevention, restriction or limitation of international transfers of Fijian Mitigation Outcome Units;
- (t) approval of the registration and conduct of emissions reduction projects, programmes and activities for the purposes of Article 6 of the Paris Agreement;
- (u) approval of the registration and conduct of emissions reduction projects, programmes and activities under approved international emissions reduction standards;
- (v) approval of the use, sale and transfer domestically or internationally of emissions reduction units issued under an approved international emissions reduction standard;
- (w) incoming international transfer of ITMOs and subsequent domestic transfers of ITMOs;
- (x) approval of the conversion of emission reduction units in accordance with section 56;
- (y) approved international emissions reduction standards; and
- (z) linking the Fijian Emissions Reduction Standard to foreign emissions trading schemes including through Article 6 of the Paris Agreement.

(4) The Minister, with the assistance of the Minister responsible for forests (as appropriate), may make regulations under subsection (3) to facilitate the development of emissions reduction projects, programmes and activities involving forests, blue carbon or other project, programme or activity type prescribed by regulations. Such regulations may provide for circumstances in which a protection order or other arrangement may be imposed in relation to an area or areas of forests, blue carbon or other project, programme or activity type prescribed by regulations that has or have been subject to the reversal or loss of carbon stocks.

(5) The Minister may make regulations for the operation of the Registry, including for—

- (a) identification procedures that must be carried out by the Director before the Director opens a Registry account in the name of a person;
- (b) the voluntary closure of a Registry account if requested by the person whose name the account is in;
- (c) the suspension of Registry accounts;
- (d) the unilateral closure of a Registry account by the Director;
- (e) entries for Fijian Mitigation Outcome Units, ITMOs, or any other emission reduction units issued in accordance with approved international emissions reduction standards;
- (f) the holding, surrender, cancellation or transfer of Fijian Mitigation Outcome Units or ITMOs;
- (g) the holding of emission reduction units issued in accordance with approved international emissions reduction standards;
- (h) the voluntary cancellation of Fijian Mitigation Outcome Units or ITMOs;
- (i) correction and rectification by the Director of clerical errors, obvious defects or unauthorised entries in the Registry;
- (j) the protection of any confidential data held in the Registry;
- (k) the publication of information relating to Fijian Mitigation Outcome Units, ITMOs, or other emission reduction units issued in accordance with approved international emissions reduction standards; and
- (l) compliance by Fiji with eligibility requirements relating to ITMOs and the international transfer of Fijian Mitigation Outcome Units under the Paris Agreement.

(6) The Minister may make regulations that require a person to make a record of certain information in relation to emissions reductions projects, programmes and activities approved under this Part and retain the record for 7 years after the making of the record.

Consequential amendments

112. The Acts listed in Schedule 2 are amended as set out in that schedule.

SCHEDULE 1
(Section 19)

LIST OF PRESCRIBED LAWS

1. Banaban Lands Act 1965
2. Banaban Settlement Act 1970
3. Biosecurity Act 2008
4. Climate Action Trust Fund Act 2017
5. Coconut Industry Development Act 2010
6. Continental Shelf Act 1970
7. Drainage Act 1961
8. Environment and Climate Adaptation Levy Act 2015
9. Environment Management Act 2005
10. Fiji Roads Authority Act 2012
11. Fisheries Act 1941
12. Forest Act 1992
13. Irrigation Act 1973
14. iTaukei Affairs Act 1944
15. iTaukei Land Trust Act 1940
16. Land Conservation and Improvement Act 1953
17. Land Development Act 1961
18. Land Transport Act 1998
19. Land Use Act 2010
20. Mahogany Industry Development Act 2010
21. Marine Spaces Act 1977
22. Maritime Safety Authority of Fiji Act 2009
23. Maritime Transport Act 2013
24. Mining Act 1965
25. Natural Disaster Management Act 1998
26. Offshore Fisheries Management Act 2012

27. Ozone Depleting Substances Act 1998
28. Pesticides Act 1971
29. Petroleum Act 1938
30. Petroleum (Exploration and Exploitation) Act 1978
31. Quarries Act 1939
32. Regulation of Building Permits Act 2017
33. Regulation of Surfing Areas Act 2010
34. Rivers and Streams Act 1880
35. Rotuma Act 1927
36. Rotuma Lands Act 1959
37. Sea Ports Management Act 2005
38. State Lands Act 1945
39. Tax Free Zones Act 1991
40. Town Planning Act 1946

SCHEDULE 2
(Section 112)

CONSEQUENTIAL AMENDMENTS

Environment Management Act 2005

1. The Environment Management Act 2005 is amended by—
 - (a) in section 27—
 - (i) in subsection (2)—
 - (A) in paragraph (c), deleting “or”;
 - (B) in paragraph (d), deleting “.” and substituting “; and”; and
 - (C) after paragraph (d), inserting the following new paragraph—

“(e) where the proposed activity may result in material greenhouse gas emissions or could be adversely affected by the impacts of climate change, an assessment of those matters, measures to address them and whether the activity or undertaking is compatible with the objectives and principles of the Climate Change Act 2021, Fiji’s Nationally Determined Contributions, National Development Plan, National Climate Change Policy, National Ocean Policy, National Adaptation Plan and Low Emission Development Strategy.”; and
 - (ii) in subsection (4) after “impact”, inserting “or may result in material greenhouse gas emissions or could be adversely affected by the impacts of climate change”;
 - (b) in section 28 after subsection (3), inserting the following new subsection—

“(3A) Where the proposed activity may result in material greenhouse gas emissions or may be adversely affected by the impacts of climate change, terms of reference must be prepared for the EIA study that require consideration of those matters, measures to address them and whether the activity or undertaking is compatible with the objectives and principles of the Climate Change Act 2021, Fiji’s Nationally Determined Contributions, National Development Plan, National Climate Change Policy, National Ocean Policy, National Adaptation Plan and Low Emission Development Strategy.”;

(c) in section 30 after subsection (5), inserting the following new subsection—

“(6) Where the EIA report finds that the activity or undertaking may result in material greenhouse gas emissions or may be adversely affected by the impacts of climate change, the EIA Administrator or the approving authority must request that the Director responsible for climate change provide recommendations on whether or not the report should be approved with or without conditions or whether an additional study is necessary.”
and

(d) in Schedule 1 after item 14, inserting the following new item—

“15. Climate Change Act 2021”.

Petroleum (Exploration and Exploitation) Act 1978

2. The Petroleum (Exploration and Exploitation) Act 1978 is amended by—

(a) in section 4 after subsection (3), inserting the following new subsection—

“(4) Notwithstanding the other provisions of this section, the State must not carry out petroleum exploration operations on lands over which—

- (a) carbon sequestration property rights have been granted; and
- (b) an international REDD+ program or emissions reduction project, programme or activity involving forests, blue carbon or other project, programme or activity type prescribed by regulations made under the Climate Change Act 2021 has been approved.”;

(b) in section 6 after subsection (2), inserting the following new subsection—

“(3) Notwithstanding the other provisions of this section, the Minister must not grant an exploration licence on lands over which—

- (a) carbon sequestration property rights have been granted; and
- (b) an international REDD+ program or emissions reduction project, programme or activity involving forests, blue carbon or other project, programme or activity type prescribed by regulations made under the Climate Change Act 2021 has been approved.”;
and

(c) in section 16, deleting subsection (1) and substituting the following—

“(1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he or she may think fit, the Minister may grant an exploration licence in respect of the whole or any part of the area applied of under section 15, provided that an exploration licence—

- (a) must not be granted in respect of any block or blocks which are already the subject of an exploration licence or production licence previously granted under the provisions of this Act; and

- (b) must not be granted on lands over which—
 - (i) carbon sequestration property rights have been granted; and
 - (ii) an international REDD+ program or emissions reduction project, programme or activity involving forests, blue carbon or other project, programme or activity type prescribed by regulations made under the Climate Change Act 2021 has been approved.”.

August 2021

CLIMATE CHANGE BILL 2021

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Climate Change Bill 2021 (**‘Bill’**) creates the legal framework for a coordinated national response to climate change recognising Fiji’s position as a vulnerable small island developing State. The Bill has been developed under the necessity to be a world leading example of national climate change legislation through its integration of new requirements for risk informed decision making, establishment of robust governance architecture for Fiji’s climate change response, and legal structure for assisting and financing economy-wide resilience and decarbonisation.
- 1.2 The Bill aims to provide a comprehensive framework that will guide Fiji’s response to climate change. In doing so, the Bill signals the scale of Fiji’s commitment to addressing climate change and long term decarbonisation efforts to embed the Paris Agreement to the United Nations Framework Convention on Climate Change (**‘Paris Agreement’**) within national law.
- 1.3 The Bill provides a high-level framing for Fiji’s response to climate change in its declaration that Fiji and the Earth are facing a climate emergency that requires rapid and ambitious transition towards a resilient net zero emissions global economy. In response to this emergency, the Bill—
- (a) establishes the framework required to better enable Fiji to meet its international obligations under the United Nations Framework Convention on Climate Change and the Paris Agreement. These legal requirements will support the development and implementation of a clear and long term climate change response;
 - (b) introduces specific governance arrangements, reporting obligations, and new overall requirements aimed at increasing Fiji’s capacity and ability to transition and adapt in the interest of safeguarding Fiji’s future and its people in the face of global climate change; and

- (c) provides a formal legal basis for key policies that exist currently but will be reviewed and updated as ongoing features of Fiji's climate change policy suite, for example the National Climate Change Policy (**'Policy'**) and the National Adaptation Plan.

2.0 CLAUSES

- 2.1 The Bill consists of 112 clauses and 2 schedules. Schedule 1 contains a list of prescribed laws that could be affected by or contribute to climate change and Schedule 2 contains consequential amendments. The 112 clauses are divided into 17 Parts. Given that the Bill is comprehensive, the clauses of the Bill will be summarised in Parts.
- 2.2 Part 1 of the Bill includes clauses 1 to 5. Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the new legislation will come into force on a date or dates appointed by the Minister responsible for climate change (**'Minister'**) by notice in the Gazette. The other clauses in this Part of the Bill contain the interpretation, application, objectives and principles of the Bill that will guide its implementation. The principles seek to ensure that in responding to the climate emergency, the core rights and freedoms recognised in Chapter 2 of the Constitution of the Republic of Fiji (**'Constitution'**) are respected, and regard is had to Fiji's national circumstances as a small island developing State, highly vulnerable to the impacts of climate change.
- 2.3 Part 2 of the Bill includes clause 6 which recognises and declares that Fiji and the Earth are facing a climate emergency. This Part highlights the impacts of this emergency on Fiji and the necessity to address and mitigate it. Fiji will contribute towards mitigating climate change by achieving net zero emissions by 2050. This Part provides the framing for the ensuing clauses of the Bill, clarifying that the purpose of the Bill is to create a legal framework for addressing the climate emergency in Fiji.
- 2.4 Part 3 of the Bill includes clauses 7 and 8 and incorporates the key operative provisions of the Paris Agreement, including the requirement to prepare, communicate and account for successive Nationally Determined Contributions (**'NDCs'**), implement adaptation actions and provide a national inventory report to the UNFCCC. The Minister with the assistance of the National Climate Change Coordination Committee (**'Committee'**) is responsible for meeting such requirements and taking all reasonable steps to promote the achievement of any sectoral emissions reduction or limitation targets in Fiji's NDCs.
- 2.5 Part 4 of the Bill includes clauses 9 to 17 and sets out the governance of Fiji's national response to climate change, led by the Minister, the Director of Climate Change and the Committee. There is an obligation to review the Bill every 5 years. Part 4 provides for the integration of climate change within all government

sectors through the appointment of focal points within each ministry, who must report bi-annually to the Director of Climate Change on the implementation of the Bill within their ministries.

- 2.6 Part 5 of the Bill includes clauses 18 to 26 and is key to achieving a “whole of government” approach to climate change. It places obligations on State entities and decision-makers under other legislation to ensure that certain decisions are made and implemented in a way that is consistent with achieving the objectives and principles of the Bill. It requires environmental impact assessments to include consideration of climate change where relevant. Government procurement and human resourcing must support the implementation of the Bill and evidence-based learning about climate change must be integrated into all levels of the Fiji National Curriculum Framework.
- 2.7 All State entities must include, in their national budget submissions, actual and estimated details of climate relevant expenditure for the purposes of the national budget and budget estimates document, the contribution of the State entity to climate mitigation and climate adaptation and the financial impacts of climate change on the State entity. The Minister must provide information on the economic implications of climate change in the supplement to the national budget address.
- 2.8 Part 6 of the Bill includes clauses 27 and 28 which requires the Minister to develop and implement the Policy with the assistance of the Committee. The existing Policy will be in effect until 2030 and a further Policy developed for successive 10-year periods. Specific consultative requirements and considerations that must inform the development of the Policy are stipulated. These requirements and considerations are intended to ensure the Policy adheres with the principles of the Bill and that its objectives reflect the views and requirements of all stakeholders. Part 6 also stipulates specific requirements for the content of the Policy to ensure it provides a comprehensive approach to Fiji’s climate change response that is consistent with existing policies and priorities. When reviewing the Policy the Minister must conduct public consultations and report on the findings of the review to Parliament and the general public.
- 2.9 Part 7 of the Bill includes clauses 29 to 33 which introduces a system for the measurement, reporting and verification of greenhouse gas emissions (‘GHG’) facilities and establishes the Fijian GHG Inventory. This will enable Fiji to meet its transparency and reporting obligations under the Paris Agreement. The Committee is responsible for biennially compiling emissions and emissions reduction data from the energy, industrial processes and product use, agriculture, forestry and other land use, and waste sectors. State entities, and persons who operate a facility or facilities in Fiji that emit in excess of an amount to be prescribed in the regulations, are required to promptly respond to any requests

for data and information made by the Committee and provide the requested data and information where possible. Facilities may also voluntarily report on their net GHG emissions, and the Minister may make guidelines which support such facilities in doing so.

- 2.10 Part 8 of the Bill includes clauses 34 to 37 and establishes an online, publicly accessible Information Platform that will contain all policies, research, statements of Fiji's GHG emissions, carbon budgets, integrated risk scenarios and national climate change projections. It will also include links to the Fijian Registry and the Fijian Adaptation Registry. It provides for the development of a national climate change communications strategy. It encourages persons who are conducting climate change research in Fiji to provide final research materials to the Director of Climate Change, and in some cases requires organisations who are conducting climate change research in Fiji to do so as well.
- 2.11 Part 9 of the Bill includes clauses 38 to 44 and sets out a long-term emissions reduction target of net zero by 2050 and requires the Minister, with the assistance of the Committee, to determine 5-year carbon budgets from 2026 to 2050. Carbon budgets must be made publicly available and may be amended. The Part establishes a framework for introducing and implementing regulations, measures and actions with the purpose of reducing Fiji's emissions across the economy.
- 2.12 Part 10 of the Bill includes clauses 45 to 64 and establishes a framework for carrying out emissions reductions projects, programmes and activities, and defines the concept of carbon sequestration property rights. It defines carbon sequestration property rights as the exclusive and distinct legal property right to carbon sequestration and carbon stocks (that is to be in the form of a certificate that attaches to the land), and establishes when consents and approvals will be required for the grant or transfer of a carbon sequestration property right, including from the Conservator or Forests, the iTaukei Land Trust Board and the Director of Lands. Carbon sequestration property rights may be registered by the Registrar of Carbon Sequestration Property Rights to the registered landowner of the land, lessee or a third party to which the landowner of the land has consented. These property rights form the legal basis for ownership of emissions reductions associated with certain types of emissions reduction projects, programmes and activities that are intended to produce tradeable emissions reductions units. No extractive or explorative activity can be approved on land over which a carbon sequestration property right is granted.
- 2.13 The Minister responsible for forests will develop relevant policies, strategies, procedures, safeguards and benefit sharing arrangements to support REDD+ and other emissions reduction projects, programmes and activities involving forests

in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. It establishes the framework by which the Fijian Government may participate in transactions under international REDD+ programmes (for example the World Bank's Forest Carbon Partnership Facility). The Minister responsible for forests is required to have the prior and informed consent of the iTaukei Land Trust Board, where relevant, and must develop benefit sharing plans to ensure that landowners are appropriately compensated.

- 2.14 Part 10 establishes a framework for the development and approval of emissions reduction methodologies for and the establishment of Fijian Emission Reduction Projects, Programmes or Activities, which will generate Fijian Mitigation Outcome Units. These units may be transferred domestically or internationally with Government consent. The Part also provides for the development of emissions reduction projects, programmes and activities under other approved international standards and Article 6 of the Paris Agreement.
- 2.15 Part 10 also establishes the Fijian Registry, to be a registry for emissions reduction projects, programmes and activities, Fijian Mitigation Outcome Units and other emission reduction units issued under an approved international emissions reduction standard in relation to an emissions reduction project, programme or activity in Fiji. It will also be Fiji's national registry for any incoming Internationally Transferred Mitigation Outcomes from another country or outgoing Fijian Mitigation Outcome Units to another country.
- 2.16 Part 11 of the Bill includes clauses 65 to 74 which introduces a framework for implementing regulations in relation to climate change adaptation and resilient development. It provides for the preparation of integrated risk scenarios and conducting an audit of existing public infrastructure and physical assets. Decision makers are required to ensure that new infrastructure has undergone a climate risk and resilience assessment. The Part creates the Fijian Adaptation Registry, which will be a registry for adaptation projects in Fiji to ensure greater transparency and consistency in the implementation of adaptation actions. Importantly, it recognises that climate change is a threat to the rights and freedoms recognised in Chapter 2 of the Constitution.
- 2.17 Part 12 of the Bill includes clauses 75 to 78 and establishes principles and procedures for the relocation of at-risk communities resulting from the adverse impacts of climate change, and allows the use of monies in the Climate Relocation of Communities Trust Fund. The Minister, with the assistance of the Fijian Taskforce on Relocation and Displacement, is responsible for relocating and supporting at-risk communities in accordance with the Fijian Planned Relocation Guidelines and its associated standard operating procedures, specified objectives that protect the rights of at-risk communities and in particular vulnerable members of these communities, and views raised at community consultations and a public hearing.

- 2.18 Part 13 of the Bill includes clauses 79 to 86 and establishes a framework for implementing regulations, measures and actions that promote the conservation and restoration of Fiji's territorial seas and coastal environments, including by protecting stores of blue carbon and reducing anthropogenic stresses on marine and coastal ecosystems. Importantly, it recognises the permanence of Fiji's maritime boundaries and maritime zones and the rights and entitlements that flow from Fiji's maritime zones under Articles 3, 8, 33, 49, 57 and 76 of the United Nations Convention on the Law of the Sea irrespective of the effects of climate change and sea level rise. The Bill aligns with the 'Declaration on Preserving Maritime Zones in the face of Climate Change-Related Sea-Level Rise' which was endorsed by Pacific Island Forum leaders under the leadership of our Prime Minister at the 51st Pacific Islands Forum Meeting.
- 2.19 It sets Fiji's long term ocean sustainability target, which is for Fiji's internal waters, archipelagic waters, territorial seas and exclusive economic zone to be 100% sustainably managed. It also sets Fiji's 2030 marine protected area target, which is for 30% of Fiji's internal waters, archipelagic waters, territorial seas and exclusive economic zone to be designated as a marine protected area by 2030. The objectives under this Part are overseen through the establishment of the National Ocean Policy Steering Committee and requirement to develop a National Ocean Policy. The Minister is given power to introduce regulations, policies, measures and actions to protect and enhance Fiji's marine environment.
- 2.20 Part 14 of the Bill includes clauses 87 to 91 and gives the Minister responsible for finance powers in relation to sustainable finance. The Minister responsible for finance may grant incentives to persons for the advancement of measures and activities designed to help Fiji mitigate and adapt to climate change. It formalises existing arrangements relating to the accreditation of State entities or private organisations in Fiji to be recipients and administrators of climate finance. It also requires the Minister responsible for finance, in consultation with the Reserve Bank of Fiji, to develop strategies to support national access to climate finance.
- 2.21 Part 15 of the Bill includes clauses 92 to 100 and requires companies, managed investment schemes, the Fiji National Provident Fund Board, licensed financial institutions and the Reserve Bank of Fiji to disclose the financial risks that climate change presents to their business and measures adopted to reduce these risks. It also requires company directors to consider climate change risks to the extent that they present foreseeable opportunities or risks to the company. The Minister is required to publish guidance materials for the purposes of assisting entities in complying with their obligations under this Part, which must be based on industry best practice including the recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures. To the extent that this Part applies to entities that also carry on business in foreign jurisdictions,

the requirements only apply in relation to the aspects of an entity's business that are carried on in Fiji. The Minister may also establish a private sector advisory committee to promote, among other matters, dialogue with the private sector on the implementation of the Bill.

- 2.22 Part 16 of the Bill includes clauses 101 to 109 which relates to the enforcement of the Bill. It is modelled on the Environment Management Act 2005 where inspectors are appointed for the purposes of collecting information in relation to emissions reduction projects, programmes and activities. Importantly, clause 104 allows for the enforcement of the Bill by third parties, who may bring proceedings in the High Court to remedy or redress a breach of the Bill. The Bill includes criminal penalties (usually a fine not exceeding \$750,000) as well as penalties for civil claims and damages.
- 2.23 Part 17 of the Bill includes clauses 110 to 112 and provides that the provisions of the Bill (if enacted by Parliament) will prevail when inconsistent with another written law, sets out a comprehensive list of the regulations that the Minister may make and empowers the consequential amendments provided in Schedule 2 for the purposes of aligning other relevant laws to the Bill.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for climate change.

A. SAYED-KHAIYUM
Attorney-General