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## **STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS**

### **Report on the Review of the Climate Change Bill 2021 (Bill No. 31 of 2021)**



**Parliament of the Republic of Fiji  
Parliamentary Paper Number: 94 of 2021**

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**SEPTEMBER 2021**

*Published and Printed by the Department of Legislature, Parliament House, SUVA.*

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## CHAIRPERSON'S FOREWORD

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Climate Change is no longer an issue that will impact our societies in another lifetime; it is here now and its impacts have gotten worse in a short period of time.

Global warming, which leads to rise in sea level and unprecedented natural disasters, are just some of these impacts that climate change has brought about and research and evidence has shown that humans are the cause of this change.

To prevent warming beyond 1.5°C, the world must reduce emissions by 7.6% every year from this year to 2030. 10 years ago, if countries had acted on this science, governments would have needed to reduce emissions by 3.3% each year. Every year we fail to act, the level of difficulty and cost to reduce emissions goes up. Some argue this means we are in a climate emergency.

A climate emergency declaration is an action taken by governments and scientists to acknowledge humanity is in a climate emergency. Certain national governments have declared a climate emergency. Declaring a climate emergency will not “solve” the climate crisis, and it shouldn't be a substitute for legislative efforts and the work of international negotiations. Further, one of the issues with many of the climate emergency declarations is that the focus is almost exclusively on mitigation policies, not on adaptation (i.e. how a country or jurisdiction can accommodate to the inevitable changes and ensure development is future proofed and resilient).

This Committee Report focuses on this legislative effort by the Fijian Government in introducing a Bill that aims to address climate change. The Climate Change Bill 2021 is a proposed law, which aims 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.

This Committee Report will provide details of the Committee's review process, which includes initial deliberation, public consultation and identification of key findings, and outcome of the review. For the review of the Climate Change Bill, the Committee relied had the support from the UNDP Fiji Parliament Support Project, which provided the Committee with an independent consultant from the UK Parliament.

In the initial stages of the review the Committee conducted preliminary deliberations and noted certain matters, which the Committee discussed at length with the assistance of its independent consultant. These matters touched on issues such as provisions of the Bill, the implementation of provisions and the role of Parliament in relation to key aspects of the goals and ambitions in addressing climate change.

The Committee also conducted public consultation on the Bill by inviting interested persons to send in their views on the Bill via written submissions and also inviting the

public, including the three political parties represented in Parliament to make verbal submissions.

The support from the public on the introduction of the Bill was one of the key highlights of the public consultation. There were also concerns and suggestions for improvements from numerous participants of the public consultation. The Committee then conducted further deliberation on the concerns raised.

This Report will also cover the Committee's consideration given to the impact of the Bill on Fiji's efforts in meeting its targets of the national development plan, which in turn contributes to Fiji's obligations towards the sustainable development goals.

At the final stage of the review, the Committee acknowledged that there were a few issues identified and in addressing these issues, the Committee sort legal clarifications on the same and this ensured that the primary objectives of the Bill are preserved. The Committee deliberated extensively on the issues and the legal clarifications provided and made efforts in coming to a conclusion that would preserve the main intention of the Bill while at the same time giving due consideration to the public's input.

The Committee is of the opinion that majority of the provisions of the Bill, as they are currently worded, would enable the preservation of the key objectives of the proposed law and also clarifies concerns raised during the public consultation.

Despite the existence of adequate provisions in the Bill; the Committee also believes that a few minor changes can be made to the Bill, which are necessary and would contribute to the preservation of the objectives of the proposed law. These relevant changes have been put forward by the Committee and are incorporated into the copy of the Bill tabled with this Report.

Therefore, the Committee believes that as we start implementing the provisions proposed by this Bill, this would be an opportune moment to gauge the implications of the Bill on Fiji's goal in achieving net zero emissions by 2050.

The review greatly benefited from the public participation, thus, on behalf of the Committee, appreciation goes to all the members of the public, the Political Parties, and entities that provided their views on the Bill and for taking an interest in the proceedings of the Committee and Parliament.

I would like to commend the work of the Members of the Committee, Hon. Rohit Sharma (Hon. Deputy Chairperson), Hon. Ratu Suliano Matanitobua, Hon. Dr. Salik Govind, and Hon. Mosese Bulitavu.



**Hon. Alvick Avhikrit Maharaj**  
**Chairperson**

## **ACRONYMS/ABBREVIATIONS AND PHRASES USED IN THE REPORT**

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CCICD	-	Climate Change and International Cooperation Division
CORSIA	-	Carbon Offsetting and Reduction Scheme for International Aviation
ECAL	-	Environment and Climate Adaptation Levy
Gg	-	Total Greenhouse gas emissions
GHG	-	Greenhouse Gas
NAP	-	National Adaptation Plan
NCCCC	-	National Climate Change Coordination Committee
NCCP	-	National Climate Change Policy
REDD+	-	Reducing Emissions from Deforestation and forest Degradation
UNFCCC	-	United Nations Framework Convention on Climate Change

## COMMITTEE COMPOSITION

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**Hon. Alvick A. Maharaj (Chairperson)**

- Assistant Minister of Employment, Productivity, Industry Relations, Youth and Sports
- Chairperson of Public Accounts Committee
- Government Whip
- Pharmacist



**Hon. Rohit Ritesh Sharma (Deputy Chairperson)**

- Former Civil Servant – Education Sector
- Deputy Chairperson of the Standing Committee on Justice, Law and Human Rights
- Deputy Government Whip



**Hon. Ratu Suliano Matanitobua (Member)**

- Shadow Minister for Youth and Sports
- Former State Minister of Fijian Affairs
- Territorial Military Officer – Republic of Fiji Military Forces



**Hon. Dr. Salik Govind (Member)**

- Public Health Specialist – United Nations (World Health Organisation)
- Deputy Chairperson of the Standing Committee on Foreign Affairs and Defence Committee



**Hon. Mosese Bulitavu (Member)**

- Shadow Minister for Defense, National Security, Immigration and Correction Services
- Former Opposition Whip
- Business Consultant/Farmer
- Territorial Military Officer – Republic of Fiji Military Forces
- Law Graduate and Researcher

### **Committee Secretariat Team**

Supporting the Committee in its work is a group of dedicated Parliament Officers who make-up the Committee Secretariat, and are appointed and delegated by the Secretary-General to Parliament pursuant to Standing Order 15 (3)(i). The Secretariat team is made of the following Parliament officers:

- Mr. Ira Komaisavai – Senior Committee Clerk
- Mr. Jackson Cakacaka – Deputy Committee Clerk
- Ms. Darolin Vinisha – Committee Assistant



# PART 1 - INTRODUCTION

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## 1.1 Background

Scientific evidence has shown that it is “*unequivocal that human influence has warmed the atmosphere, ocean and land. Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred*”<sup>1</sup>. And while Fiji is shown to be on the lower spectrum of global carbon emitters<sup>2</sup>; basically non-existent on the chart, we, like most small island countries, are the most vulnerable to the impacts of too much carbon emissions<sup>3</sup>.

This one-sided polity for carbon emissions needs to change, thus, the introduction of the Paris Agreement in 2015 and came into force in 2016, of which 191 countries in the world are a party to, including the world’s top carbon emitters<sup>4</sup>. The Paris Agreement is a legally binding international treaty on climate change which sets the goal to limit global warming to well below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels. The Paris Agreement is a binding agreement, which brings all nations into a common cause to undertake ambitious efforts to combat climate change and adapt to its effects<sup>5</sup>.

Fiji is among those nations that consider this ambitious target a must-meet goal since climate change has become an issue that is said to threaten our very existence.

The Climate Change Bill has been developed under the premise that Fiji is facing a climate emergency. 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.

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<sup>1</sup> IPCC Report, *Summary for Policy Makers*.

<sup>2</sup> EDGAR - Emissions Database for Global Atmospheric Research; <https://edgar.jrc.ec.europa.eu/>

<sup>3</sup> Climate Change Secretariat (UNFCCC); *Climate Change and Small Island Developing States*; [https://unfccc.int/resource/docs/publications/cc\\_sids.pdf](https://unfccc.int/resource/docs/publications/cc_sids.pdf)

<sup>4</sup> United Nations Climate Change; <https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states>

<sup>5</sup> United Nations Climate Change; <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

The Climate Change Bill is a piece of legislation that aims 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<sup>6</sup>.

## 1.2 Committee’s Review Procedure

The Committee’s review process was through the resolution of the Committee and the following provides brief summary of the agreed upon procedure and program.

The first step in the Committee’s review process was the formulation of its program with regards to its review process. The Committee’s agreed upon review program was as follows:

### i) Initial Analysis of the Bill

The Committee began with an initial reading of the Bill and conducting its own deliberation of the Clauses in the Bill. An in-depth deliberation of the Bill was conducted by the Committee, whereby pertinent issues were identified.

The Committee also had the support of an independent consultant from the UK Parliament, through the support provided by the UNDP Fiji Parliament Support Project.

### ii) Identification of mode of public consultation

The Committee then discussed, which mode of public consultation would be suitable for the review the Bill. The Committee resolved to rely on two main modes of public consultation, which is to call for written submission and conducting verbal public consultation via virtual means

### iii) Awareness on the Committee’s public consultation through advertisement

The Committee then conducted awareness on its proposed public consultations, through advertisements via newspaper advertisements.

### iv) Conducting of public consultation

The Committee began by reviewing the number of consultation conducted by the CCICD, of the Ministry of Economy. It was then brought to the knowledge of the Committee that numerous entities and individuals gave in submissions for past 3 years, while the Bill was in draft format.

The following list does not specifically identify each participant that participated in the above mentioned consultation, but is a reference to key entities that participated and the some of the key consultation forum to which the participants participated in.

<b>Participants of Consultations which contributed to the formulation of the Climate Change Bill</b>	
Australian High Commission	Department of Civil Aviation
New Zealand High Commission	Air Transport Lincensing Board
Maritime Safety Authority of Fiji	Air Terminal Service
Fiji Revenue and Customs Services	Airports Fiji Limited

<sup>6</sup> Explanatory Note to the *Climate Change Bill 2021*, pages 87-88.

Ministry of Economy	Civil Aviation Authority of Fiji
Ministry of Fisheries	Office of the Prime Minister
Ministry of Infrastructure	Ministry of Sugar
Ministry of Commerce, Trade, Tourism and Transport	University of the South Pacific
Fiji Bureau of Statistics	Fiji Sugar Corporation
Ministry of Agriculture	Fiji Sugar Cane Growers Council
Mineral Resources Department	Ministry of Industry and Trade and Public Enterprise
Energy Fiji Ltd	Vatukoula Gold Mining Limited
Department of Energy	Newcrest Fiji Limited
Fiji Electricity Authority	Ministry of Industry and Trade and Public Enterprise
Pacific Power Association	Fiji Manufacturers Association
Sunergize Fiji Ltd/Clay Engineering Limited	Fiji Export Council
CBS Power Solutions	Ministry of Environment
MV Solar Fiji Ltd	University of the South Pacific
GreenCo Fiji Ltd	Department of Town and Country Planning
Fiji National University	Department of Housing
LMMA Network International	Secretariat of the Pacific Regional Environmental Programme
Department of Energy	Suva City Council
Fiji Institute of Engineers/Irwin Alsop Pacific	Nasinu Town Council
Paradise Technology Limited	Nausori Town Council
Energy Pro Fiji Ltd	Nadi Town Council
European Delegation to the Pacific	Lautoka City Council
Global Green Growth Institute	Savusavu City Council
Transport Planning Unit – MoIT	Labasa Town Council
Land Transport Authority	Water Authority of Fiji
Fiji Roads Authority	South Pacific Waste Recyclers
Fiji Bus Operators Association	Waste Recyclers (Fiji) Limited
Fiji Taxi Association	Pacific Scrap Buyers
Fiji Minibus Association	HG Leach Fiji Limited
Tebara Transport Limited	Climate Change Division, Ministry of Economy
Niranjan Motors Limited	Department of Fisheries
Asco Motors Fiji Limited	Fiji Tuna Association
Nivis Motors Limited	Pacific Islands Tuna Industry Association
Carpenters Motors Fiji Limited	Pacific Fishing Limited
IUCN	Fiji Fish Marketing Group Limited
University of the South Pacific	Conservation International
Sailing for Sustainability Fiji	Ministry of Lands and Mineral Resources
Ministry of Rural and Maritime Development	World Wide Fund for Nature
European Union Delegation	Wildlife Conservation Society
Secretariat of the Pacific Community	Fiji Crops and Livestock's Council
Fiji Ports Authority	Fiji Cooperative Dairy Limited
Fiji Ship Owners and Agents Associations	Sustainable Energy Industry Association of the Pacific Islands
Fiji Maritime Academy	Fiji Pine Limited
LejaRotuma	Tropik Wood Industries Limited
Denerau Marina	Fiji Hardwood Corporation
Goundar Shipping	Nabou Green Energy
Tradewinds Marine Ltd	Food and Agriculture Organization of the United Nations (FAO)
Bluewater Craft	Ministry of Industry and Trade
Williams & Gosling	Department of Tourism
Fiji Ships & Heavy Industries Ltd	Fiji Hotel and Tourism Association
Victoria Shipping	Sustainable Tourism Association of Fiji

Fiji Yachting Association	Fiji Independent Travelers and Backpackers Association
Uto ni Yalo	Fiji Revenue and Customs Services
Fiji Link	Fiji Bureau of Statistics
Northern Air	Fijian Competition and Consumers Commission
Ministry of Justice and Civil Aviation	Ministry of Women, Children and Poverty Alleviation
Fiji Consumer Council	Deutsche Gesellschaft für Internationale Zusammenarbeit
DIVA for Equality	Asian Development Bank
Pacific Conference of Churches	World Bank
Pacific Islands Association of Non-Governmental Organizations	International Renewable Energy Agency
University of Fiji	United Nations Development Programme
Ministry of Health	Japan International Cooperation Agency
People's Community Network	Korea International Cooperation Agency
Nature Fiji	Climate Works
Pacific Islands Development Forum	Fiji Environmental Law Association
Pacific Islands Climate Action Network	Westpac Banking Corporation
Pacific Islands Association for NGOs	Youths from around the country
Fiji Development Bank	International Union for Conservation of Nature
Reserve Bank of Fiji	Melanesian Spearhead Group
Secretariat of the Pacific Community	Pacific Islands Development Forum

<b>Consultation forum</b>	
2020 Update of the Nationally Determined Contribution;	National Adaptation Plan;
Draft National Climate Finance Strategy;	National Ocean Policy; and the
Low Emissions Development Strategy 2018-2050;	Planned Relocation and Displacement Guidelines
National Youth Summit on Climate Change	

The Committee also noted that CCICD in conjunction with the Ministry of Youth and Sports conducted a 3-day National Youth Summit on Climate Change at GPH in February 2021. A total of 200 youths attended this summit, whereby youths were presented with the second draft of the Climate Change Bill. The youths have had the opportunity to give in their views on the Climate Change Bill. The Committee noted that the third and final draft was the result of the input given by youths during this 3-day summit. Some of the other topics covered regarding Climate Change during this summit were as follows:

The Committee was also committed to upholding public trust in Parliament, by ensuring that there is public participation and that all such participation is given due consideration. The Committee was mindful of the provisions in Standing Order 111(1)(a) and ensured that its meetings were open to the public and the media, except during such deliberations and discussions to develop and finalise the Committee's observations and this Report.

The Committee called for written submissions from the public and other interested stakeholders by placing an advertisement through the Parliament website and Parliament social media pages on social media platforms; Facebook, Twitter and Instagram. The Committee received written submissions on the Bill from relevant stakeholders. A summary of these submissions is provided in a later part of this report, under the heading '*Committee's Deliberation and Analysis of the Bill*'.

The Committee also endeavoured to conduct public consultation via verbal submissions, but this was done through virtual means, given the existing restrictions placed around the country as a measure against Covid-19. All the verbal submissions conducted during the public consultation were recorded and open to the public and the media.

v) Review of evidence collected and seeking legal clarification on pertinent issues

The Committee reviewed all the evidence received from the public consultation and to maintain due diligence, the Committee also relies on legal clarification on technical issues identified from the Bill, which is obtained from the Office of the Solicitor-General. These clarifications also assist the Committee in deliberating on these pertinent issues and in deciding whether there would be recommendations for any changes to the Bill.

vi) Drafting of Committee Report

The final step of the review process is the compilation of all issues identified from the evidence received from the public consultation. This is then deliberated on with the necessary legal clarifications and the Committee forms its own independent view on all issues identified.

## **PART 2 - COMMITTEE'S DELIBERATION AND ANALYSIS OF THE BILL**

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### **2.1 Initial Deliberation**

At the commencement of the review, the Committee read through the Bill, Clause by Clause, and identified matters, which it felt merit further deliberation. These matters pertained to each part of the Bill, focusing on issues relating to the provisions of the Bill, the implementation of the provisions, and the role of Parliament in the determination of vital aspects of climate change.

Some of the specific matters highlighted in the initial deliberation stage included discussing the climate emergency being declared under the Bill and how it would work, considering how emergency declarations provided under a law would normally operate.

The Committee had discussion on Parliament's role regarding aspects of the Government's action plan for addressing climate change, including evaluation of NDCs submitted to the UNFCCC; how Parliament will scrutinise the guidelines on planned relocation; how the review of the Annual Report and five yearly reports will be undertaken.

There was discussion on the aim of the Bill to overhaul decision-making in State entities and how this can be achieved; whether there will be guidelines in place for this and what process will be undertaken in developing these guidelines. In addition to this, such an aim would mean training and support to state entity officials.

Additionally, there was discussion on the National Climate Change Policy (NCCP), specifically in relation to the existing NCCP and related matters such as frequency of its review, consultation on its development and incorporation of the consultation in its revised version.

Discussions were also carried out on other Parts of the Bill, pertaining to;

- reporting of Fiji's obligations under the Paris Agreement and reporting by companies in Fiji on their emissions;
- the online information platform on Fiji's greenhouse gas emissions and its accessibility by the all members of the public;
- the circumstances that would allow for amendments to be made to carbon budgets;
- the implications on the failure to meet the intended targets set out in the carbon budgets;
- carbon sequestration and its impact on Fiji's efforts in reducing emissions, and whether this would also allow for international carbon offsetting schemes, such as the Carbon Offsetting and Reduction Scheme for International Aviation (CORSA);
- querying about how the Government will ensure other forest-dependent communities, apart from iTaukei's are fully sufficiently involved in REDD+ projects;
- the impact of the legislation on citizens health and land rights for landowners;
- the audit of infrastructure assets and how will this audit account for cumulative impacts;

- the development of the guidelines on planned relocation and how would the views of vulnerable persons be heard, if these persons/groups fail to engage, even if they are encouraged to do so, during consultations before decisions for relocations are made;
- the implications of the Bill on Fiji’s maritime borders and relevant international legal treaties;
- the implementation of the provisions of the Bill in terms of the targets set for ocean sustainability;
- the frequency of the meeting of the National Ocean steering committee;
- the implication of the provisions regarding sustainable financing on established international best practice on investments;
- the implication of the Bill on the institutions or banks in functioning effectively in enabling sustainable finance through, for example, public-private partnerships;
- the possibility of exemptions to the requirement to make climate related financial disclosure;
- the implementation of the Bill, in terms of the effectiveness of the reporting/disclosure requirements on climate change financial risks; and
- querying how the Minister will assess what business should be reported in Fiji and thus subject to the provisions in this Bill.

## **2.2 Bill Summary**

By way of consensus, the Committee during the drafting of this Report believed that it be prudent to also capture, the necessary matters the proposed law is intending to bring about. This would conveniently provide the reader of this Report with the aforementioned information about the Bill. The Bill summary is provided below.

Part 1: Preliminary; this Part of the Bill would provide for the interpretation, application, objectives and principles of the Bill that will guide its implementation.

Part 2: Climate emergency Climate emergency declarations. Part 2 of the Bill would declare a climate emergency in Fiji. It does not convey any emergency powers. Rather, this Part of the Bill provides the framing of the Bill, clarifying that the purpose of the Bill is to create a legal framework for addressing the climate emergency in Fiji.

Part 3: Implementation of the Paris Agreement the UN Framework Convention on Climate Change (UNFCCC); Part 3 of the Bill would give full effect to Fiji’s obligations under the Paris Agreement, including:

- the requirement to prepare, communicate and account for successive Nationally Determined Contributions (‘NDCs’); and
- the requirement to implement adaptation actions and provide a national inventory report to the UNFCCC. The Minister with the assistance of the National Climate Change Coordination Committee (see part 4 of the Bill) is responsible for meeting such requirements.

Part 4: Governance; Part 4 of the Bill sets out the governance of Fiji’s national response to climate change. The Bill would:

- Provide a range of powers to the Minister to implement and promote compliance with the Act;
- Require the Minister to appoint the Director of Climate Change; and Establish the National Climate Change Coordination Committee. The Bill would provide for an obligation to review the Act every five years and an obligation to report to Parliament on an annual basis on the status of implementation of international and national obligations to respond to climate change;
- progress towards the attainment of net zero emissions and climate resilient development.

Part 5: Climate change obligations of state entities; this Part of the Bill would place obligations on “state entities” to ensure that certain decisions are made and implemented in a way that is consistent with achieving the objectives and principles of the Bill, including:

- Requirements for information on the economic implications of climate change to be included as a supplement to the national budget;
- Requirements for all State entities to include in their budget submissions: details of climate-relevant expenditure and information on finance support needed under the Paris Agreement;
- Requirements for environmental impact assessments to include consideration of climate change where relevant;
- Policies for Government procurement and human resourcing to support the implementation of the Bill; and
- Integrating evidence-based learning about climate change into all levels of the Fiji National Curriculum Framework. To support this whole of Government integration of climate change mitigation and resilience, the Minister must issue guidelines for decision-makers.

Part 6: Development and evaluation of the national climate change policy; Part 6 of the Bill would require the Minister to develop and implement the NCCP with the assistance of the climate coordination committee. It would provide for specific consultative requirements and considerations that must inform the development of the Policy from 2030 onwards. The Bill would require that a review of the NCCP be conducted ahead of any proposed amendments to the NCCP for successive 10-year periods. This review must be presented to Parliament, which will be able to approve, amend or reject such amendments.

Part 7: Measurement, reporting and verification of emissions and emissions reductions; this Part of the Bill would require the Minister to introduce a system for the measurement, reporting and verification of greenhouse gas emissions (‘GHG’). The Bill would also require Ministries (under the directions of Permanent Secretaries) to provide estimates on a biennial basis of emissions from their relevant sectors (e.g. transport, energy, agriculture). The Bill also provides for Regulations to be made specifying a level of emissions above which other bodies must record and report emissions.

Part 8: Research, data collection, reporting and communications; The Bill provides for the Minister to direct that public communications plan be produced. It also requires the Ministry to produce (within 12 months of the Bill being enacted) to 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”. The Bill also “encourages” persons who are conducting climate change research in Fiji to provide final research materials to the Director of Climate Change. It also requires some organisations who are conducting climate change research in Fiji to do so as well

Part 9: Climate change mitigation; The Bill provides for a legal net zero emissions reduction target by 2050. To meet this target, the Minister, with the assistance of the Committee, must determine 5-year carbon budgets from 2026 to 2050. The carbon budgets must be made publicly available and may be amended and The Part establishes a framework for introducing and implementing regulations, measures and actions with the purpose of reducing Fiji’s emissions across the economy. This includes powers to introduce a carbon pricing mechanism, fees and charges payable in respect of greenhouse gases emitted and other mechanisms.

Part 10: Carbon sequestration property rights and emissions reduction projects, programmes and activities; this Part of the Bill would establish a framework for carrying out emissions reductions projects, programmes and activities, and defines the concept of carbon sequestration property rights. The Bill would define carbon sequestration property rights and establishes when consents and approvals will be required for the grant or transfer of a carbon sequestration property right. 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 tradable emissions reductions units.

This Part of the Bill gives the Minister responsible for forests responsibility for developing relevant policies, strategies, procedures, safeguards and benefit-sharing arrangements to support REDD+ and other emissions reduction projects. The Bill provides special protections to the iTaukei Land, and requires permissions to be sought from the iTaukei Land Trust Board, where The Bill would establish 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 Bill would establish the Fijian Registry, to be a registry for emissions reduction projects. This 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.

Part 11: Climate change adaptation and resilient development; this Part of the Bill would introduce a framework for implementing regulations in relation to climate change adaptation and resilient development. The Bill would also recognise climate change as a threat to the rights and freedoms recognised in Chapter 2 of the Constitution. The Bill would establish the National Adaptation Plan Steering Committee, which would be tasked with preparing National Adaptation Plans. In preparing the National Adaptation Plan, the steering committee would be encouraged to consult with a wide range of stakeholders. The Bill would provide for the preparation of integrated risk scenarios and conducting an audit of existing public infrastructure and physical assets. The Bill would require decision makers to ensure that new infrastructure has undergone a climate risk and resilience assessment. The Bill would create 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.

Part 12: Climate displacement and relocation; this Part of the Bill would establish the Fijian Taskforce on the Relocation and Displacement of Communities Vulnerable to the Impacts of Climate Change. This taskforce, with the Minister, would be responsible for preparing the Planned Relocation Guidelines and its associated standard operating procedures, specified objectives that protect the rights of at-risk communities' principles and procedures for the relocation of at-risk communities resulting from the adverse impacts of climate change. The Bill would create specified objectives for these guidelines 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. The Bill would also allow for the use of funds in the Climate Relocation of Communities Trust Fund (established under the Climate Relocation of Communities Trust Fund Act 2019).

Part 13: Oceans and climate change; this Part of the Bill would establish 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. The Bill would recognise the permanence of Fiji's maritime boundaries and maritime zones under the United Nations Convention on the Law of the Sea irrespective of the effects of climate change and sea level rise. The Bill would set 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. This part of the Bill would establish the National Ocean Policy Steering Committee, which would be tasked with developing a National Ocean Policy. The Minister would be given powers to introduce regulations, policies, measures and actions to protect and enhance Fiji's marine environment.

Part 14: Sustainable financing; this Part of the Bill would give the Minister responsibility for finance powers in relation to sustainable finance. The Bill would formalise existing arrangements relating to the accreditation of State entities or private organisations in Fiji to be recipients and administrators of climate finance. The Bill would also require the Minister responsible for finance, in consultation with the Reserve Bank of Fiji, to develop strategies to support national access to climate finance.

Part 15: Private sector transition and engagement; this Part of the Bill would require 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. The Bill would also require company directors to consider climate change risks. This Bill would require that the Minister publish guidance materials to assist with the implementation of this Part of the Bill within 12 months of the enactment of the law. These guidelines would have to be based on industry best practice including the recommendations of the Financial Stability Board's Task Force on Climate-related

Financial Disclosures. This Part of the Bill would only apply to business conducted in Fiji.

Part 16 deals with 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. It includes criminal penalties (usually not exceeding \$750,000) as well as penalties for civil claims and damages.

Part 17 of the Bill includes clauses that provide that the Bill will prevail when inconsistent with another written law. It also 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.

### **2.3 Evidence received via public consultation**

The Committee conducted public consultation on Bill and received numerous submissions by members of the public and a summary of the key issues noted from the submissions is provided below.

The Bill affects many policies relating to environment and thus, it would have been a good approach to provide separate Bills for separate aspects such as the Oceans.

A particular group that participated in the consultation, urged the government to reinstate the mandatory requirement that a private sector advisory committee be established by changing the wording from ‘may’ to ‘must’ in Clause 92 to ensure adequate and effective measures and instruments are designed and implemented. The group also submitted that the Environment and Climate Adaptation Levy (‘ECAL’) should apply broadly across manufacturing, export, transport, energy and other high emitting sectors. The tourism sector is not always a large emitter and we are all engaged in educational and conservation related activities that contribute to improved awareness about the importance of climate action. It is the submittees belief that operators in other sectors of the economy should also contribute to addressing the climate crisis.

Submittees also noted that in order to be able use new instruments, some of which are mentioned in the draft Bill, the most straightforward way to do this is to reform ECAL now and give the tourism industry certainty that when it is increased again it will be applied to emissions NOT revenue. There are no behavioural change aspects to the way it is applied on sales. Applying ECAL to emissions (or energy) from 2023 would drive significant behaviour change and a shift to solar within the economy. It would also meet the needs of improving the Government Greenhouse Gases (GHG) inventory and reporting requirements under the Paris agreement. It was argued that a carbon pricing mechanism helps to ensure that emission reductions take place where it is cheapest for them to occur.

The draft Bill anticipates additional reporting requirements on the private sector to provide information relating to emissions. We believe that there are ways to incentivise

the private sector to report emissions data - either by reforming ECAL to apply it to emissions or making ECAL revenues accessible to all for those that are reporting emissions.

There was also submission that urged the recognition of the existing overly bureaucratic business environment. It was noted wherever possible, mechanisms to require businesses to share information should be done in as streamlined a way as possible by adjusting existing instruments and not creating new ones. Fiji has a complicated business environment and adding complexity to the existing situation could result in implications for jobs, revenue and tax receipts.

Submission also noted that further consultation is needed with private sector stakeholders to support them in understanding the implications to the bill in relation to the Environment Management Act (EMA) and in particular provisions that relate to monitoring and enforcement of EMA. The submitters queried whether there would be an opportunity to streamline environment impact assessment (EIA) processes to incorporate some of what is needed to implement the climate change bill successfully?

Submission noted that many tourism businesses and communities depend on a healthy ocean and it was highlighted that one vital provision for relating to this has been removed in the current version of the Bill. The submitter advised that a previous draft included a moratorium on Deep Sea Mining<sup>7</sup> and the Committee is urged to look at reinstating this provision.

There also submission by the Ministry of Commerce, Trade, Tourism and Transport, which highlighted how the Bill will solidify Fiji's approach to climate change targets, specifically with regards to trade, investment, tourism, transport and micro, small and medium enterprises development.

The Climate Change Bill must recognize the eternal value of land and what is on it to the iTaukei. The Bill must be amended to recognize that all carbon sequestration rights in indigenous lands, leased or not should remain with the landowners. Committee response.

Submission commented that traditional designs must be acknowledged in Clause 72 building codes and encouraged and eco-friendly and safe in disasters. The rationale for this is that as shown from experience a majority of structures that collapsed during the latest cyclones didn't meet category 3 structural standards because the people couldn't afford it. If Govt. is to ensure a safe building environment, then it would have to assist in the cost of such housing infrastructures. And research has shown that iTaukei Bures when built in traditional method are as strong as category 3 structures.

There was suggestion that Clause 6(6) of the Bill be amended and that it should read a whole of nation or whole of society approach as it requires all of us who call Fiji home to take ownership of this Act and the goal of achieving net zero greenhouse gas emissions by 2050.

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<sup>7</sup> Clause 93, Part 14 – Draft Climate Change Bill 2019 version;  
<https://www.economy.gov.fj/images/CCIC/uploads/BILL/Draft-Climate-Change-Bill.pdf>.

Some of participants of the public consultation strongly recommended that the National Climate Change Coordination Committee membership include non-state actors, young people, women, and those marginalised groups and communities.

Certain submitters also commented on the responsibility of the Minister responsible for Climate in that this portfolio is a critical one and requires a dedicated portfolio. Additionally, there were comments that suggested that the combined portfolio of Environment and Climate Change makes the most sense.

Certain participants of public consultation noted that the Bill seems to be designed for the Minister to be micromanaging the implementation of the Act. This is unhealthy and creates potential conflicts of interest as the Minister should be limited to an oversight role.

The submission noted that Clause 11(1) states that the Minister must appoint the Director of the Climate Change and International Cooperation Division and this is considered as an outright political interference and a constitutional breach, if taking into account S. 127(7) of the Constitution of the Republic of Fiji. Additionally, there was concern raised regarding Clause 24(2), whereby it states that the “...Minister must, where relevant, review and revise key performance indicators and job descriptions for civil servants within their ministry ...” The submission argues that it is not the role of the Minister to be conducting KPI and skills assessment of civil servants.

The submission also noted that we cannot have an Act that places higher responsibilities upon ourselves and lesser on these biggest polluters. It is a crime of climate injustice. It was argued that the Bill must address the principle of ‘Polluters must pay’ the loss and damage to us and our future generations (which in this case are the countries that are the biggest emitters of carbon.

In regard to Clause 10, it is argued that in the rush to construct a CARBON MARKET, the Bill does not strengthen Fiji’s learnings from REDD and REDD+ and is silent on creating a sustainable carbon credit Market. Additionally, it is worrying to note that from reading the Bill; credits are only awarded to participants by the Government for growth as it occurs (since the State’s last report on growth). If the trees are lost, or damaged by fire, we don’t get any additional credits. If they are destroyed by cyclones, increased precipitation, drought, or salination – you don’t get any additional credits.

In relation to the National Adaptation Plan Steering Committee, submissions noted that this Bill does not offer any affordable means for families to rebuild, fabricate or move into sustainable farming. The comments put forward noted that it was sad to note that Fiji still sees no desire to move into an Organic Nation. Imagine if the Bill carried specific language aimed at soil rehabilitation, restoration, and turning Fiji into an organic nation by 2040 or 2050.

This part also does not show how businesses can be rewarded for going off the grid, using sustainable energy sources.

The submission also suggested that there are some very important areas that could have really strengthened this segment of the Bill, banning the entry of derelict ships into our

EEZ, the banning of whaling ships into our EEZ, the banning of nuclear-powered ships into our EEZ.

In relation to the Financing, Private Sector Transitioning & Engagement and the Enforcement Provision; it was submitted that we need adaptations, relocation and resilience and funding is available for it through available global climate financing. But we must ensure transparency and accountability of these funds when they are received for climate change programs.

In relation to Clauses 87 to 91 relating to Sustainable Financing. It was proposed that additional provisions be made that requires the Minister of Finance to publish widely in both newspapers all funding amounts for the various climate change programs, usage and acquittals, percentage of program completed and forecast.

The submission raised a concern that the Bill gives powers to the Minister to appoint Authorised Persons with wide ranging unfettered powers. Section 9 (2) states that 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.

Clause 14 defines Inspectors and includes those who are appointed under the Environment Management Act 2005. Clause 15 provides powers of the authorized officers'. These powers are too wide, too much, unnecessary and simply lends itself to the possibility of abuse. These provisions should be amended. Clause 16 expresses a dangerous territory and is absolutely unnecessary. Powers to enter and inspect without a warrant will set dangerous precedents and lends itself to possible abuse. Powers are too much in the hands of the authority and it was suggested that the Bill limits the powers of authorized officers and that it should make it mandatory to seek out a warrant/ license to enter.

Submission noted that the responsibilities for the Minister responsible for climate change, as prescribed in the Bill are very important but quite extensive and might be too much for one individual. This would be a concern taking into consideration the current makeup of Cabinet the portfolio responsibilities vested to each Minister.

There were also comments that the Bill lacks provisions that cater for “loss and damage”, in terms of national concerns to Fiji’s specific loss and damage and in having a record of robust inventory of intangible or non-economic losses from all our communities who have traditions and customs when extreme weather events remove all traces to it. The Bill does not define what traditional knowledge is.

There is also concern raised on Fiji’s commitment to the implementation of the Bill, whereby in the 2021-2022 Budget just passed, there is only about \$1.2M allocated to Head 4, Programme 1, Activity 8 which is for “climate change and international cooperation” \$1.06M of this allocation is to pay for established staff alone. There is no other allocation in any of the Heads in the budget dedicated to climate change.

There is suggestion that Clause 8 of the Bill be removed in its entirety and be replaced with the provision from the 2019 version of the Bill (Clause 14), which provides for a

“Cabinet Committee on climate and disaster risk”, to have oversight on the implementation of the Bill.

It is noteworthy that the reference year for which carbon budgets must be reduced in relation to, was the year 2019 in the 2020 draft of the Bill, and it is now the year 2013, in this current Bill before the Committee. There is nothing in the explanatory notes to explain this change.

The Bill specifically excludes emissions from international aviation or shipping in Clause 3(3), however this could be over-turned in Clause 43(1) and 111(a), where the Minister is allowed to make regulations on it, in order to give effect to the Bill.

Blue carbon is referenced throughout the Bill, yet there appears to be no specific mechanism to register these blue carbon sequestration rights. It is pointless if Clause 48(c) states that policies, procedures and safeguards for REDD+ are to be developed in accordance with the UN Declaration on the Rights of Indigenous Peoples, but the Bill does not permit an interface between blue carbon sequestration rights and customary fishing ground owners, to register their exclusive and distinct legal rights to blue carbon sequestration and blue carbon stocks.

In the 2019 version of the Bill, Clause 93 prescribed a 10-year moratorium on deep sea mining. It is disappointing that this was removed in the 2020 and the current version of the Bill. If we are serious about oceans protection in relation to climate change, this 10-year moratorium on deep sea mining must be bought back as per to the precautionary principle laid out in Clause 5(d).

There was submission that the preamble to the 2016 Paris Agreement includes persons with disabilities as one of the populations most acutely affected by climate change. However, subsequent provisions omit disability inclusion as an essential principle in action against climate change. Persons with disabilities remain largely excluded from decision-making processes and plans to address and prevent climate change and the responses to climate-related disasters and emergencies both at national and local level.

Submission also put forth recommendation that under Clause 67 on climate change adaptation, that the needs of persons with disabilities are taken into account and ensuring their engagement in relation to capacity building, education, awareness, adaptation, and action for climate empowerment in addition, that climate awareness is not only limited to climate adaptation partners, but to be expended as far reaching and to include all the various communities in Fiji.

In regard to Clause 5, which caters for the principle of intergenerational and gender equity, it was recommended that human rights principles and human rights based approach are taken into consideration to ensure, that persons with disabilities and their representative organizations are included in any climate actions particularly those actions that directly affect their lives and, the safety and protection of future generations of persons with disabilities from climate hazards. To recognize that persons with disabilities can also play an active role in making decisions and choices as climate actors rather than passive recipients of climate adaptation programs.

In addition, on averting and minimising loss and damage, the loss of accessibility and damages to assistive devices during extreme weather events have multiple impacts on the lives of persons with disabilities. This means they also lose access to health, education, food source, livelihood, and other aspects of their lives. PDF respectfully recommends that in any climate action that is undertaken in any community to minimize climate risks including programs of relocation, that the concept of pre-condition to inclusion of persons with disabilities is introduced. There are six components of the pre-conditions to inclusion; accessibility, assistive devices, the principle of non-discrimination, social protection, disability support services including mental health services and community based inclusive development. The absence of pre-conditions to inclusion undermines the inclusion and independence of persons with disabilities in any climate mitigation and adaptation program.

There was also submission that argued that the Bill is too cumbersome and need to be more concise and clearly understandable to the ordinary person on the street.

Clause 6 of the Bill provides that the Act is a response to current and future risks. This declaration of emergency as prescribed in the Bill is quite confusing, in the sense that when it comes to emergencies, the understanding is that there has to be an existing national disaster or crisis that calls for a declaration of emergency.

In regards to placement and relocation; there should be a social impact assessment done to those communities in the verge of relocation due to climate environment impact. The Bill should take into consideration the indigenous traditions and customs, and prior and informed consent before undertaking any placement or relocation. – incl. speaking notes

Developing countries such as Fiji can apply for substantial grant from developed countries for climate resilient development but there is a need to properly monitor the utilization of this funding so that these funds are used for needed projects.

In regard to the penalty provisions, there are varying comments put forth by the submitters; some commented that the penalty of \$750K is not enough for big polluters, while others said that it was too much, noting that it is unreasonably outrageous. Even as a discretionary power, the maximum fine is just like climate change – it must be avoided for the same reasons, the cost is too much. The main offence in the Bill is withholding or providing information known to be false, failure to provide information or making a statement that has a false particular is not peculiar to this Bill only. It exists in various other Acts of Parliament, but none has a penalty this steep. It must be revised downwards to a reasonable figure of \$2,000 maximum with discretion to the court on the imposition. And there was also a comment that the Bill should take a different approach and prescribe alternatives to the penal provisions and it is suggested that the Government should come up with solutions to help the people to reduce their carbon emissions and not just rely on penal provisions to punish companies that emit a lot of carbon.

A copy of the written submissions and transcripts (Verbatim Reports) of the submissions received can be obtained from the online Appendices of this Report, which can be accessed via the parliament website: [www.parliament.gov.fj](http://www.parliament.gov.fj).



## 2.4 Sustainable Development Goals/National Development Plan Impact Analysis

In reviewing the Bill, the Committee was mindful of the Bill's impact on Fiji's efforts in achieving the targets set out in the national development plan, which in turn contributes to Fiji's overall commitment and obligation towards the global agenda, which is the sustainable development goals (SDGs).

The initial deliberation stage identified that the Bill makes specific references to the SDGs, and in one such vital reference was on the principles on which the implementation of the Bill will be based on<sup>8</sup>. It was also noted that the whole Bill is premised that there is a climate emergency and that this relates to SDG 13 – whereby the global goal relates to taking urgent action to combat climate change and its impacts.

It is encouraging to note that the Bill recognises persons with disabilities (Clause 5- *Principles* and Clause 10- *Obligation to report & review the implementation of the Act*). These specific references in the Bill supports Fiji's endeavour in meeting its targets on SDG 10 by emphasising the social, economic and political inclusion of persons with disabilities and SDG 11 by creating accessible cities and water resources, affordable, accessible and sustainable transport systems, providing universal access to safe, inclusive, accessible and green public spaces.

During the review it was also noted that there has been extensive consultation on the Bill conducted during the drafting of the Bill, whereby the contents of the Bill has been informed by the consultations of more than nine climate change-related policies that have been developed over the past 3 years. Each of these processes were influenced by consultations with marginalized groups including people living with disabilities. Feedback received specifically on the Bill as well as the culmination of feedback for related policies has been used to inform the development of the Climate Change Bill.

The National Climate Change Policy (NCCP) is the central policy document that has informed the development of the CCB. The NCCP and its objectives are premised on the principles of inclusivity and suggests strategies which include specific considerations for people living with disabilities. Moreover, the policy intentions set out in the NCCP are guided by the Pacific Framework for the Rights of Persons with Disabilities and comply with relevant UN Conventions on human rights including the convention on the 'Rights of the Child', 'Rights of Older Persons', and 'Rights of Persons with Disability'.

The Committee also identified from the review that the Bill is aimed at addressing climate change for the benefit of all persons living in Fiji. Therefore, the Committee believes that the Bill was also designed based on the principles of gender equality.

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<sup>8</sup> Clause 5 (e) and (i), Climate Change Bill 2021 (Bill No. 31 of 2021).

## PART 3 - KEY ISSUES IDENTIFIED

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At the penultimate stage of the review, after reviewing the evidence received from the public and those that participated in the public consultation and also taking into consideration the Committee's deliberation on the Bill; the Committee identified certain pertinent issues, which the Committee placed reasonable emphasis on. The following are these key issues that were identified from the review.

That there are provisions that vests functions and powers to authorities specified in the Bill, which are not usually related to such authorities or that such powers are too wide. There were also provisions in the Bill that may be contradictory to other provisions. It was also noted that the current version of the Bill excludes certain key aspects, which relate to climate change, such as civil aviation carbon emissions and deep sea-mining prohibitions. Additionally, it was noted that the implementation of the Bill, would need necessary resources and capacity building for Government officials and other actors that will be contributing to the initiatives for addressing climate change.

The contents of the Bill was formulated through consultations of more than nine climate change-related policies that have been developed over the past 3 years. Each of these processes were influenced by consultations with marginalized groups including people living with disabilities. Feedback received specifically on the Bill as well as the culmination of feedback for related policies has been used to inform the development of the Climate Change Bill ('**Bill**').<sup>9</sup>

The NCCP is the central policy document that has informed the development of the Bill and whereby the objectives are premised on the principles of inclusivity and suggests strategies, which include specific considerations for people living with disabilities. And it was encouraging to note that the Ministry of Economy collaborated with the Ministry of Youth and Sports to hold a 3-day National Youth Climate Summit in February 2021, which was attended by approximately over 200 participants.

In regard to the implementation of the Bill in terms of funding needed to effectively carry out implementation, it was noted that many of the activities, policies, and overarching objectives of the Bill are already in existence and funded to some degree. Additional financing to support the implementation of the Bill is already in the process of being secured by the Ministry Economy through various bilateral, multilateral and philanthropic partners. It was also noted that the amount of funds allocated to the CCICD does not represent the entirety of the resources CCICD and other departments and ministries have access to that are purposed for managing climate change risks. There are also efforts to mobilise new and additional financing, which will ultimately be supported by this legislation and provides a very strong platform and basis for donors and partners to understand the depth of our commitments.

The resourcing implications associated with Parts 7, 8, and 9 of the Bill which relate to Fiji's climate change mitigation targets are consistent with existing commitments and

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<sup>9</sup> National Climate Change Policy 2018-2030, Planned Relocation Guidelines, Displacement Guidelines, Nationally Determined Contribution 2015 and 2020, National Adaptation Plan, Low Emissions Development Strategy, National Oceans Policy

plans to accelerate the scale-down of national emissions towards net-zero by 2050. While the costs associated with achieving economy-wide decarbonisation are high and contingent on access to external financing, rather than introduce un-expected costs, the Bill provides legitimacy for plans already in place. For instance we are already in the process of establishing a national Greenhouse Gas (GHG) Inventory, improving GHG emissions data collection, and engaged with initiatives designed to accelerate our access to new technologies and financing.

Through current partnerships and funding agreements, efforts have begun to support the climate mitigation commitments that are solidified by the Bill. Through funding recently secured from the Green Climate Fund, ongoing bilateral assistance with the development of the Fiji Rural Electrification Fund, support secured for electric-mobility feasibility studies, technical assistance in place through the Pacific Regional Nationally Determined Contributions Hub, Global Nationally Determined Contributions Partnership, Global Green Growth Institute, GHG Management Institute, Initiative for Climate Action Transparency, Capacity Building Initiative for Transparency, Commonwealth Climate Finance Action Hub and World Resources Institute, there is an increasingly diverse range of partnerships invested in supporting Fiji's sustainable development and energy transition. These partnerships are expected to continue supporting resource mobilisation to operationalise the Bill.

It was also noted that Part 10 of the Bill has been harmonised with the revised draft of the Forest Bill to help improve the enabling environment for carbon market engagement in Fiji such as our Emissions Reduction Payment Agreement with the World Bank. The Bill enables the recognitions and creation of Carbon Sequestration Property Rights. This enables a landowner or lessee with permission from the landowner to undertake emissions reduction projects, programmes and activities. This will have the potential to generate Fiji Mitigation Outcomes Units that can be traded for revenue in a local or international carbon market. Such a market arrangement is expected to encourage resource owners to maintain natural carbon sinks and create new ones while earning market-based returns.

In April 2021, the Australian Government announced it will invest FJ \$92.5 million in setting up a high-integrity carbon offset scheme for Australia and countries in the region called the Indo-Pacific Carbon Offset Scheme. This is indicative of the changing landscape of carbon market opportunities in the Pacific and creates an opportunity for Fiji which is further enabled via the provisions under Part 10 of the Bill.

A number of donors including the Asian Development Bank, the World Bank, Governments of New Zealand and the United Kingdom, and others have indicated commitment to supporting the intent of Part 11 of the Bill which includes requirements to revise Fiji's building codes and improve capacity for climate risk assessment.

There were also climate change related projects undertaken, which were funded through funds provided by donor countries and some of these key projects and initiatives include the following:

<b><u>Project</u></b>	<b><u>Location</u></b>	<b><u>Donor</u></b>	<b><u>Donor Partner</u></b>
Solar Hybrid Power Projects	Yasawa High School-Yasawa & Nakoro Village-Navosa	European Union	
Community Relocation Project	Narikoso Village-Kadavu	European Union	
Pacific Insurance and Climate Adaptation Program	Fiji Wide		Government of Luxembourg
1st Climate Action Pacific Partnership (CAPP) Conference-2017	Suva		Governments of Germany, Australia, the United Nations Development Programme and the Asian Development Bank
2nd Climate Action Pacific Partnership (CAPP) Conference-2018	Suva		Governments of Germany, Australia, New Zealand, India, UK, the United Nations Development Programme and the Asian Development Bank & Others
3rd Climate Action Pacific Partnership (CAPP) Conference-2019	Suva		Governments of Germany, Australia, New Zealand, India, UK the United Nations Development Programme and the Asian Development Bank & Others
National Climate Change Week-2017	Suva/ Labasa/ Levuka/ Lautoka		Australia/NZ
Oceans Pathway-Plastic Ban/Stryofoam Ban	Fiji Wide		UNFCCC/UK

A study on different governance options and fundraising approaches for the Community Relocation and Displaced Peoples Trust Fund was funded by GIZ, conducted by external legal consultants and coordinated by CCICD. This work and the ongoing development of Standard Operating Procedures for Planned Relocation in Fiji underpins the preparedness to enact Part 12 of the Bill.

The recent endorsement of the National Ocean Policy is aligned with the objectives of Part 13 of the Bill. The linkage between ocean health and Fiji's climate change response within legislation provides an advantageous foundation for progressing innovative ocean financing instruments.

Through support from the Government of United Kingdom and the United Nations Development Programme, the Ministry of Economy is in the process of developing the Pacific's first sovereign Blue Bond, is exploring the concept of coral reef insurance, and is in the process of developing new financing agreements with the World Bank and the Asian Development Bank aimed at supporting the climate resilience and productivity of Fiji's blue economy. These activities are directly aligned with supporting the provisions set out under Part 13 of the Bill.

A grant agreement with the Grand Duchy of Luxembourg is in place that has been supporting the establishment of a new sub-unit within the Ministry of Economy dedicated to the development and piloting of innovative financing instruments. This sub-unit referred to as the 'Drua Incubator' endorsed by Cabinet in 2018 has unlocked additional resources to support the implementation priorities associated with the provisions of the Bill with a specific focus on supporting Part 14 of the Bill and its focus on unlocking new forms of sustainable financing. On 25 August 2021 the Ministry of Economy in Partnership with the UN Capital Development Fund launched the first low-cost parametric micro-insurance product aimed at providing financial protection for farmers and communities with livelihoods that are vulnerable to climate and disaster risks.

The Bill also creates an enabling environment for the Ministry of Economy to become a National Direct Access Entity (NDAE) to the Green Climate Fund (GCF) which is the single largest dedicated source of multilateral climate finance in the world. This is expected to complement the Fiji Development Bank which is also a NDAE to the GCF.

The requirements under Part 15 of the Bill for company directors, financial institutions, the Fiji National Provident Fund Board, and Reserve Bank of Fiji (RBF) to report upon and disclose information on climate change risks and measures adopted to reduce them will be further defined by guidelines. A staged approach to these requirements will be adopted, ensuring requirements are initially basic and manageable using existing capacity and resources. CCICD has worked closely with the RBF to consider the implications of the Bill. The Bill is closely aligned with the RBF's green banking strategic priorities, particularly those articulated in the Financial Sector Development Plan (2016/2025). The Bill is envisaged to be a tool for helping improve economic stability and minimise climate induced macro-economic shocks.

In close alignment with the objectives of Parts 14 and 15 of the Bill, the Minister has commissioned support to develop a regional investment and de-risking facility for renewable energy projects in the Pacific. The proposed *Pacific Energy Access Fund* aims

to attract institutional investors to invest in renewable energy projects in the Pacific that are owned and operated by the private sector. Renewable energy investments will be de-risked through the use of concessional and donor financing. This blended financing approach is expected to provide an opportunity to create meaningful alignment between Fiji's development objectives and foreign investment interests.

In relation to the discussions on Parliament's role regarding the Bill and aspects of the climate change initiatives; it was noted that the role of Parliament is provided under the Bill, such as in Clauses 10 (1) & (4) quinquennial review of the implementation of the Act and review of the status of implementation of international and national obligations; Clause 12 (13) the opportunity to review the Annual Report. Clause 28 (3) also provides that the Minister must prepare a report which outlines the findings of the review of the NCCP, which is presented to Parliament. Additionally, even the carbon budgets are to be laid before Parliament within 10 sitting days after the determination of the carbon budget.

The National Climate Change Coordination Committee is an extension of the Fijian Government's operational arrangements and is focused on improving the coordination across government that is required to implement national climate action. The composition of the Committee is purposely focused on Permanent Secretaries and as an intragovernmental body the terms of their collaboration and the structure of this committee is best decided by the Fijian Government.

In terms of the provisions which relate to the overhaul decision-making in State entities, it was noted that the provisions within the Bill complement existing plans, ambitions, and commitments made across government. While the Bill formalizes these commitments and creates systems and requirements for improving decision-making it does so with the understanding that most state entities are already engaged with climate risk management in relation to their respective responsibilities. The Bill will help to better align these efforts, create new coordination opportunities, and create better recognition and integration of activities already being progressed. There will be guidelines issued under clause 20 will and which will offer an opportunity to draw on best practice globally and be an opportunity to develop a clear framework for decision-making that is relevant for all sectors.

Additionally, in relation to the NCCP, the current NCCP sets out the main requirements and structure for the Climate Change Bill. Many of the initiatives and objectives introduced by the NCCP 2018-2030 are given a legal basis through the draft legislation. The current NCCP requires a mid-term review. Most 10-year policies would require the same. This is more a matter of best practice than an issue that warrants a legal requirement via legislation. Following the mid-term review of the NCCP and expiry of the policy in 2030 – the CCB provides clear process evaluating the NCCP progress and sets out a legal process for developing a revised version of the policy. The NCCP and Climate Change Act will remain inter-related and self-reinforcing.

In terms of Fiji's commitment to the Paris Agreement; it was noted that Fiji's emissions are negligible in the global context. According to the Third National Communication, Fiji's GHG Inventory, emissions were estimated at 2500 Gg CO<sub>2</sub> equivalent which equate to ≈0.006% of global emissions. Given Fiji's extreme vulnerability and dependence on external support, Fiji's proposed targets are ambitious. They put Fiji on a

trajectory to nearly halve GHG emissions between 2013 and 2030 for its most emission intensive sectors, with a view to achieving net zero economy wide GHG emissions by 2050, or earlier if possible. Fiji's pursuit of an absolute, economy-wide emission reduction target is ambitious especially as SIDS are not held to the same responsibility as other Parties under the Paris Agreement due to the challenge we face. Reference is made to the decision 1/CP.20, whereby small island development states may communicate the information on strategies, plans and actions for low GHG emission development..." (para. 11)" We are demonstrating to the world that despite our minimal contribution to emissions and high vulnerability to climate risks we are still willing and able to play our part and demonstrate that decarbonization of our economies is possible and not optional.

And in terms of the reporting on the UNFCCC, the Committee noted that Parties to the Convention (UNFCCC) submit periodic reports termed as 'National Communications' developed in accordance with guidance contained in decision 17/CP.8. Fiji to date has submitted three National Communications, the latest one being submitted in 2020 covering the GHG inventory for the period 2006-2011. Under the UNFCCC, Fiji, like other small island developing countries, has had flexibility in reporting hence the need for limited reporting and mainly relying on international data sets and default values for emission estimation. However, under the Enhanced Transparency Framework of the Paris Agreement, all countries are required to strengthen transparency governance structures, develop and use Greenhouse Gas (GHG) estimation methodologies, as well as update, implement, and integrate new data and information flows with pre-defined periodicity which also includes domestic monitoring/measuring, reporting and verification (MRV) systems for tracking climate finance received, provided and needed.

Moreover, in relation to the online information platform, it was noted that this platform has been in operation since 2010 and there is work being done in regard to its revamping. The cost for developing specific detailed components of the information portal will be determined once technical scoping has been done by a digital service provider. This will be done once the overhaul of the Portal has been completed. The Portal is expected to become the online information platform referred to in the Bill. This is already being funded by the Green Climate Fund. The Portal will be intended for use by all members of the public including people living with disabilities. It will enable access to latest information on climate change including projects, plans, policies, strategies, trends, science and any other relevant information requested by users of the Platform through a feedback process. The overhaul of the National Climate Change Portal entails the inclusion of accessibility tools for people living with disabilities.

In regard to the circumstances under which amendments to the carbon budget will be made; it was noted that these circumstances will include natural disasters that cause massive damages such as tropical cyclone Winston, a global pandemic such as COVID-19, a global financial crisis such as the one in 2008, or any other event that deeply affects the Fijian economy. It is not for the Minister to weaken the carbon budget. In emergency situations such as that mentioned above, the Minister needs to allocate finite resources towards recovery efforts and much needed fiscal stimulus measures to minimise economic fallout. In such situations, the Minister may choose to back-load carbon budgets to allow for socioeconomic recovery within the first 1 to 3 years of the carbon budget cycle.

In terms of Fiji's commitment to reducing emissions in relation to international carbon offsetting initiatives, such as the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA); it was noted that Fiji has potential of leveraging financing incentives on voluntary markets including CORSIA. The Bill creates the mechanism for registering all emissions reduction projects, recording credits generated and applying the necessary corresponding adjustments to subtract these credits from its national account as means of averting the risk of double counting. Furthermore, such cooperative approaches, under Article 6.2 of the Paris Agreement relating to review and reporting (currently under negotiations) requires initial reporting and reporting of annual information which is subject to review by the Expert Review Teams formed under the Paris Agreement. These provisions and the emissions and removals reporting under the Enhanced Transparency Reporting (Article 13) of the Paris Agreement will further enable transparency and accountability as a means to avoid the risk of double counting.

Climate change is a threat to 'the right to health' recognised in Chapter 2 of the Constitution. The Bill is specifically purposed to scale-up the required investments, decision-making, and foresight required to minimize the potential for climate change to compromise the well-being of all Fijians and future generations of Fijians. The Bill's multisectoral approach would reinforce the requirement for national health services to access additional funding to help monitor climate change impacts on human health and develop appropriate preventative measures. The Bill creates new requirements to reform education curriculums, building codes, risks assessments, to reduce the impacts of climate change on human health. It also creates specific new mechanisms such as the planned relocation policy suite and trust fund to help minimize loss and damage at the community level.



## **PART 4 - OUTCOME OF REVIEW**

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After extensive deliberation, the following outlines some of the main outcomes of the Committee's deliberation and review.

The pertinent issues identified during the review were deliberated on at length by the Members of the Committee, after which the Committee sought clarification from the Climate Change and International Cooperation Division and also legal assistance from the Office of the Solicitor-General so as to ensure that all these relevant issues were appropriately addressed and that the objectives of the Bill were preserved.

The Committee weighed all options concerning these issues that had been identified and the clarifications provided on the same. The following specifies the Committee's stance on each issue identified and this has been resolved by the Committee through consensus.

In regard to the comments put forth on the responsibilities for the Minister responsible for climate change, being quite extensive and might be too much for one individual the Committee noted that the implementation of the Bill will be vested on all Ministers and all Government Ministries. Thus, it is not a Bill, which will be handled by a single Minister or Ministry. It is a whole of government collaboration.

In regard to the issue pertaining to the Bill excluding emissions from international aviation or shipping; the Committee noted that Clause 3(3) of the Bill provides that emissions from international aviation or shipping will not be counted towards national totals. It is in relation to accounting processes, and is in line with best practice and the Intergovernmental Panel on Climate Change (IPCC) Guidelines. This does not contradict clauses 43 and 111 of the Bill, which allow the Minister to regulate these industries in specific ways. Therefore the Committee believes this issues is adequately addressed.

On the issue of Blue carbon having no specific mechanism for registration as blue carbon sequestration rights; the Committee identified that the Blue carbon sequestration rights are carbon sequestration rights and as such may be registered under Part 10 of the Bill. This is particularly relevant for mangroves and the foreshore. For marine areas beyond the foreshore, this is a developing area of law and the regulations under the Bill may delve deeper into this issue and provide clarification where clarification is needed should this particular form of blue carbon sequestration rights become a viable mechanism for Fiji in the future. Therefore the Committee believes this issues is adequately addressed.

With regard to suggestion raised on amending the Bill to read that it is a whole of nation or whole of society approach; the Committee noted that Clause 6(6) of the Bill provides for the purpose of the Act in relation to the declaration of a climate emergency. Clause 6(6) of the Bill is intended as a call to action to the different government agencies and to pull together the resources of government to face the challenges of a climate emergency. The whole of society or whole of nation approach is seen in clause 4 and clause 5 of the Bill which is a call to action for all sectors of society set out in the objectives and principles of the Bill. Therefore the Committee believes this issues is adequately addressed and that no amendment is needed in that regard.

In relation to the suggestion that Clause 8 of the Bill be removed in its entirety and be replaced with Clause 14 of the 2019 version of the Bill; the Committee noted that Government policies dictate that all issues ultimately go to Cabinet for endorsement; this is especially true for issues such as government policies. Therefore in relation to clause 8 of the Bill, to avoid further red tape and bureaucracy there is no need to create a Cabinet Committee given that the issues on climate change disaster risk will ultimately be tabled before Cabinet in terms of its policies. Furthermore, the implementation of the Bill, in terms of reports and reporting requirements, will need to go before Cabinet before it can be tabled in Parliament. Creating a Cabinet Committee will only duplicate the existing mechanisms in place. Additionally, streamlining plays a key aspect here and it would be better to deal with these issues first at the technical or administration level for the purposes of efficiency. Therefore the Committee believes this issues is adequately addressed.

In regard to the concern raised on the powers of the Minister to appoint Authorised Persons and such persons having wide ranging unfettered powers; the Committee noted that the provisions in clauses 14 and 15 of the Bill are the same as those set out in the Environment Management Act 2005 in relation to authorised officers. Given that these powers are already available to inspectors appointed under the Environment Management Act 2005, it would be consistent to also provide the same enforcement powers to authorised officers as the Bill would require a similar form of enforcement. Therefore the Committee believes this issues is adequately addressed.

With regard to the concern raised on the Minister power to directly appoint the Director of the Climate Change and International Cooperation Division; the Committee noted that these provisions are only operable on the basis that the Climate Change Division would be a stand-alone body much like a statutory authority; however, given that the Division, at this point in time, will remain under the Ministry of Economy, the current wording of the provision could mean impinging on the open-merit recruitment system (OMRS) and Constitutional and statutory provisions relating to appointments of civil servants within a Ministry. The Committee therefore recommends that clause 11 (1) be amended and a suggested wording for the amendment is as follows:

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

With regard to the issue pertaining to the potential micromanaging role of the Minister responsible for climate change; the Committee noted that the Bill, like other Acts already in force, is well within its ambits to prescribe the roles of the Minister and this is evident in other laws like the Mining Act 1965, the State Lands Act 1945, the Customs Tariff Act 1986 etc. However it was also identified that there are certain aspects of the provisions in the Bill regarding the issue that needs to be addressed through amendments. Therefore, the Committee recommends an amendment to be made to Clause 24(2) in relation to civil servant KPIs and the role of the Minister and Permanent Secretary. A suggested wording of the amendment is as follows:

*“24.—(2) All minsters 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.”*

On the suggestion for the National Climate Change Coordination Committee (‘NCCCC’) membership to include non-state actors; the Committee noted that Clause 12 of the Bill allows for non-state actors to participate in the NCCCC. Clause 12 (10) (b) and (c) empowers the Committee to draw on non-state actors and to create a platform for the exchange of ideas with non-state actors by including non-state actors in technical working groups of the Committee and in consultative groups of the Committee. It was also noted that in terms of membership, the membership of the Committee is intended to be kept at the government level to allow better coordination amongst the government stakeholders first before the reaching out to non-state actors. Therefore the Committee believes that this issue is adequately addressed and that no amendment is needed.

And in regard to the issue noted on the reference year for which carbon budgets must be based on, which in this case is the year 2013; the Committee noted that this relates to the NDC base year, thus it would be more appropriate for the base year to be 2013.

In regard to the comments put forward in relation to the carbon market, REDD and REDD+ and additional credits for trees lost, or damaged and destroyed by fire, cyclones, increased precipitation, drought, or salination; the Committee noted that there may be misconception about how a carbon market is supposed to operate. It is hard to see how providing additional credits for the loss of carbon stocks could support environmental integrity. It was noted that the approach preferred is what is present in the Bill, in clause 54. If there is a material reversal or loss of carbon stocks, this must be reported to the Director. The Director may require that the proponent remedy the reversal or loss of carbon stocks. This will take the form of either a remediation plan or the purchase and cancellation of units to the equivalent of the reversal or loss of stocks. If the proponent fails to do either of these things, the Director may revoke the declaration of the project, programme or activity. While there is a legitimate aim to establish a workable carbon market, such a market must achieve environmental integrity and lead to accomplishing the goals of the Paris Agreement.

The Committee also noted that there are certain level of activities that needs to be carried out on the land in order to qualify the forest for carbon trading. The perception raised during submissions that any piece of land consisting of forests can be reserved for carbon trading is incorrect. It was noted that unless and until certain activities is carried out to improve the carbon sink of that particular forest then this would qualify the forest for such an initiative. What this means is for the leasee or the landlord wanting to reserve their forests for carbon trading needs to do following activities<sup>10</sup>:

- i. Afforestation (7,970 Hectares = 100,000 tonnes) – the re-establishment of forests (tree-planting) on barren and degraded land, including the riparian (along the major rivers, coastal and waterways), which is currently being addressed through the Ministry of Forestry’s 30 million tree planting programme;
- ii. Reforestation (7,532 hectares = 600,000 tonnes) – through the support and contribution of the government-owned plantation companies of the Fiji Pine

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<sup>10</sup> ‘Emissions Reduction Program’, Climate Change and International Cooperation Division, Fiji Ministry of Economy.

- Limited (FPL) and Fiji Hardwood Corporation Limited (FHCL) and the establishment and retention of forests on areas deemed uneconomical within their respective lease-holding
- iii. Sustainable management of natural forests (8,500 hectares = 90,000 tonnes) – based on the cyclic removal of a prescribed volume of selected trees that ensures the regrowth of the residual trees for future harvesting;
  - iv. Climate-smart agricultural systems (3,780 hectares = 270,000 tonnes) – the incorporation of trees in the traditional agricultural and silvo-pastoral farming systems, i.e. agroforestry systems, firebreaks, fodder, windbreaks and barriers on pastures and grazing land, and the introduction of forest based income generating ventures to support the daily needs and welfare of the forest dwelling communities as an alternative to forest harvesting and natural resource extraction;
  - v. Protection of native forests (9,500 hectares = 1,440,000 tonnes) for purpose of conserving the forest biodiversity and its ecosystem services.

It is said that each of the 5 activities are expected to contribute to combating climate change and establish and/or enhance the ability of the forests to produce and/or enhance carbon sinks and result in the sequestration of a substantial amount of carbon dioxide and reduce emissions.

The issue raised on the recognition of the eternal value of land to the iTaukei and that all carbon sequestration rights in indigenous lands, leased or not should remain with the landowners; the Committee noted the Bill does not in any way diminish iTaukei land rights or the value of land. The issue of carbon sequestration rights will be dealt with much like a lease and the carbon certificate will expire once the lease expires. It is not intended to permanently attach to land. Furthermore, the registration of carbon sequestration rights may only be done with the consent of the landowners and the iTLTB, which serves as an added layer of protection for iTaukei land interests.

In regard to the issue pertaining to the National Adaptation Plan Steering Committee and the lack of initiative for moving into sustainable farming and an organic nation, and the reliance on sustainable energy sources; the Committee noted that this is not only a policy matter, but also that the National Adaptation Plan ('NAP') is the more appropriate format for articulating policy developments. It was also identified that the NAP is also reviewed every 5 years. Additionally, the Committee noted that there are other actors that play a role in contributing to initiatives relating to an organic nation and the utilization of sustainable energy sources. One such contributor is the Ministry of Agriculture, which undertakes activities that are guided by its 2019-2023 Strategic Development Plan that focuses on 5 key priorities and one which includes 'Increasing adoption of sustainable resources management and climate smart agriculture'.

In terms of sustainable energy sources, the Committee noted that the energy sector is already relying on sustainable and renewable energy sources. Additionally, it is noted that the main player in the energy sector, the Energy Fiji Limited, has plans already in place for developing sustainable energy sources, which include:

1. Qaliwana/Upper Wailoa Hydro Power Development in Viti Levu;
2. Lower Ba Hydro Power Development in Western Vitilevu;
3. Namosi Hydro Power Development in Central Vitilevu;

4. 3x5MW Grid connected Solar PV projects in Viti Levu;
5. 4MW Solar AgroPV project in Ovalau with Battery Energy Storage System (BESS);
6. 1MW Solar PV Project in Taveuni with Battery Energy Storage System (BESS); and
7. 5MW Grid connected Solar PV project at Nadi (Dratabu, Qeleloa) in Western Viti Levu.

The Committee therefore believes that this issue is adequately addressed.

In regard to the issue noted on the non-inclusion of a moratorium on Deep Sea Mining; the Committee noted that deep sea mining or seabed mining is dealt with under the Mining Act 1965 ('Act') and thus any issues on a moratorium will be dealt with under that Act. It was also noted that currently, the stance of the Act is in alignment with the discussions on the moratorium in that the Act does not allow deep sea mining and other options are being explored under the Act in relation to the moratorium. The Committee therefore believes that this issue is adequately addressed.

In regard to the issue raised on the penal provisions prescribed by the Bill and that the possibility of there being a possibility of contradictions in the penalties provided; the Committee noted that the fines under clause 111(1)(k) of the Bill are intended to be prescribed under regulations in the future and also caters for penalties which may be attached to such an offence. The drafting of clause 111(1)(k) of the Bill is streamlined with the way penalties provisions are drafted in other existing laws such as tax and customs laws. The Committee therefore believes that this issue is adequately addressed.

With regard to the issue raised on the role of the Minister in publishing certain information prescribed to be published in the Bill, the Committee noted that the model of publication is not specified to allow the Minister to publish the information on several platforms and mediums in order to reach the target audience. If there is a need to further prescribe specific manner of publication, this can be done by regulations made under clause 111. The Committee therefore believes that this issue is adequately addressed.

In regard to the issue on the development of the REDD+ policy and the reference to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); the Committee noted that a reference to the Constitution holds far greater weight than a declaration and are more historically and contextually appropriate. Therefore the Committee recommends that Clause 48(c) be amended by deleting the United Nations Declaration on the Rights of Indigenous Peoples<sup>1</sup> and substituting;

*“...sections 28, 29 and 40 of the Constitution for the benefit of present and future generations.”*

In relation to the issue noted regarding the implications of selling or leasing a land that has carbon sinks which have carbon units that have been registered; the Committee noted that Clause 45(2) of the Bill specifically provides that upon registration, a carbon sequestration property right ('Carbon Right') is a separate interest over land (without the right to possession) which entitles the holder to deal with the Carbon Right by sale, transfer, mortgage, charge or pledge. The subsequent sale of land or a lease does not affect the registered Carbon Right certificate.

The Carbon Right certificate may only be sold or transferred by the person to whom the Carbon Right is registered. The purpose of the registration of the Carbon Right is for the use of the sequestered carbon to generate units through approved projects, which are then subsequently traded in a carbon market. This purpose is thus protected under clause 47 which provides that no mining, logging, exploration, exploitation or extractive activity is to be approved on lands over which a Carbon Right has been registered.

This protection (along with clause 46(12) and (13) of the Bill) allows for the protection of the purpose of the Carbon Right registration. This is sufficient regardless of how the land itself is subsequently dealt with. This protection will also apply for the term for which the Carbon Right is registered. It also does not impact what the landowner or lessee does with the land itself, so long as the subsequent buyer of the land or lease is aware that the protections guaranteed by clauses 46 and 47 will continue to apply to the land during the term of the Carbon Right certificate. The Committee therefore believes that this issue is adequately addressed.

## **PART 5 - APPRECIATION**

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The Committee acknowledges all those that had provided great support to the Committee during the review of the Bill.

Firstly, the Committee acknowledges all the members of the public, Ministries and entities for their invaluable contribution, which assisted the Committee in the review. The Parliament of the Republic of Fiji for realising the vital aspect of public participation in the legislative making process, thus supporting the Committee in conducting public consultation. The Committee also acknowledges the Speaker of the Parliament of Fiji, for providing the Committee ample sitting days to carry out the review on the Bill and the Secretary-General to Parliament for supporting the Committee during the review period.

Furthermore, appreciation goes to the UNDP Fiji Parliament Support Project, for its support in providing an independent consultant, Dr. David Hirst, who assisted the Committee in the review.

The Committee would also like to show its appreciation to the Climate Change and International Cooperation Division of the Ministry of Economy for their timely feedback to queries by the Committee.

Moreover, the Committee would also like to acknowledge the Parliament IT Team for its support, which enabled the Committee to meet virtually and be able to carry out the review on the Bill.

## **PART 6 - CONCLUSION**

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After adhering to due process and the requirements of the Standing Orders of Parliament, the Committee in its deliberation and review noted that there was great support for the Bill.

The review highlighted certain issues on the Bill, which were deliberated on extensively by the Committee. These issues were clarified with the legal team from the Solicitor-General's Office and the technical experts from the Climate Change and International Cooperation Division. The Committee believes that the clarifications provided adequately addressed the issues identified.

The Committee is of the opinion that majority of the provisions of the Bill are adequate in ensuring the achievement of its ultimate objective, which is to provide for a framework that would guide Fiji's efforts in addressing and combating climate change. To contribute to the achievement of the aforementioned objective, the Committee is also of the opinion that certain key issues highlighted from the review needs to be addressed by making necessary changes to the provisions of the Bill. Therefore, the Committee recommended that amendments to be done in relevant provisions of the Bill. These amendments are captured in magenta coloured texts in the Bill provided with this Report.

The Committee through this bipartisan Report commends the *Climate Change Bill 2021* (Bill No. 31 of 2021), and the proposed amendments to the Bill, to the Parliament.



## **MEMBERS SIGNATURES**

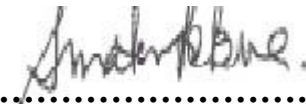
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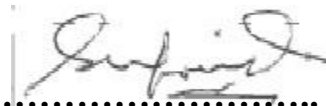
**HON. ALVICK MAHARAJ  
(CHAIRPERSON)**



**HON. ROHIT SHARMA  
(DEPUTY CHAIRPERSON)**



**HON. RATU SULIANO  
MATANITOBUA  
(MEMBER)**



**HON. DR. SALIK GOVIND  
(MEMBER)**



**HON. MOSESE BULITAVU  
(MEMBER)**

**DATE: 21 SEPTEMBER 2021**

