

eCLC responses to the Climate Emergency

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EDO Qld.

Environmental Defenders Office

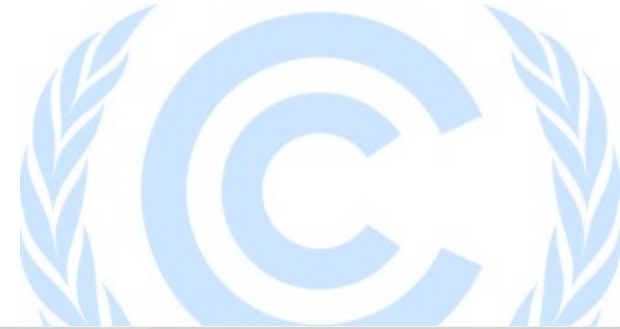
*Using the law to protect
our environment.*

Overview

1. International regulation
2. Physical constraints
3. Australian laws
4. eCLC responses
5. Conclusions



UNFCCC 1992



United Nations Framework Convention on Climate Change 1992 – Article 2 :

*“stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent **dangerous anthropogenic interference** with the climate system”.*

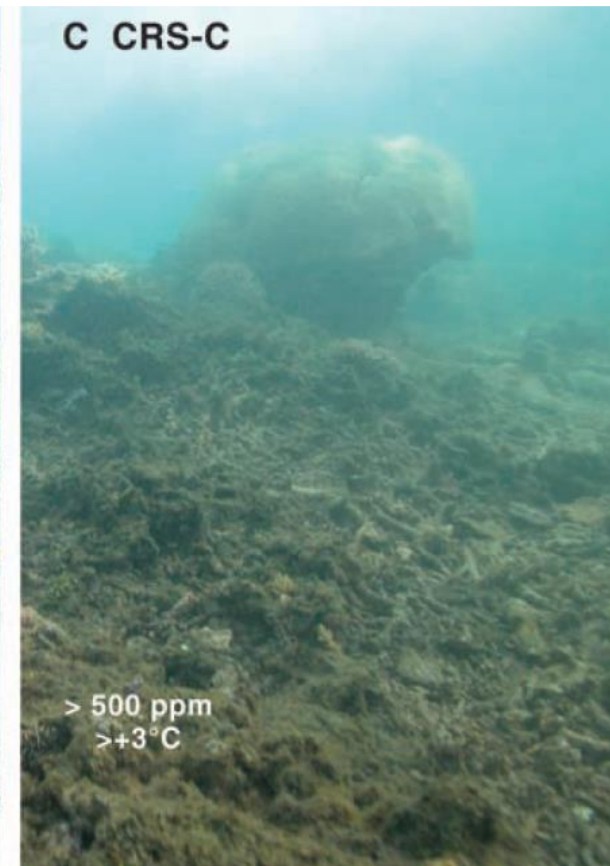
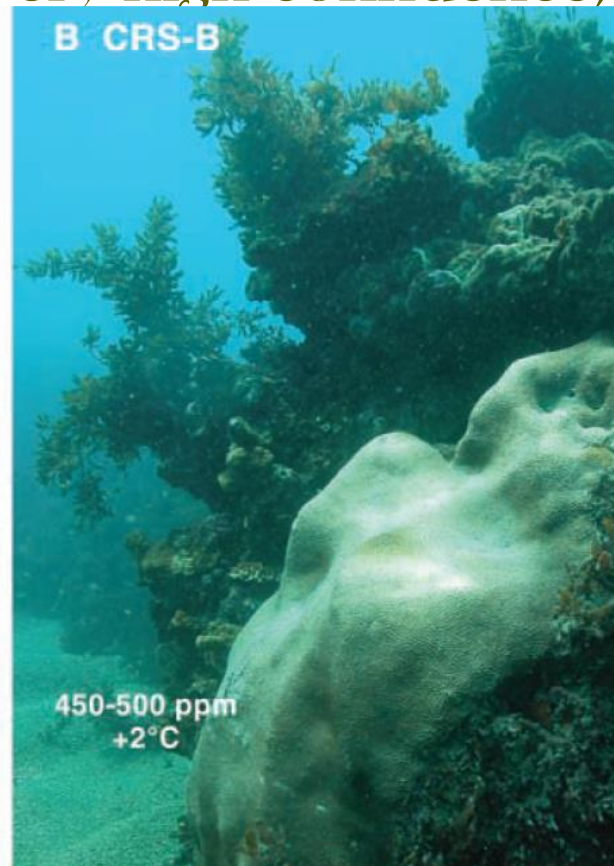


Paris Agreement 2015

“Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognising that this would significantly reduce the risks and impacts of climate change”

- 196 Countries signed
- 185 Countries ratified

IPCC Special Report - Global Warming of 1.5C
Coral reefs, are projected to decline by a further 70-90% at
1.5C (*high confidence*) with larger losses (>99%) at 2C
(*very high confidence*)



Budget to have likely (66%) chance of avoiding 2C/1.5C

Budget to have likely (66%) chance of avoiding	2C Billion tonnes CO ₂ e	1.5C Billion tonnes CO ₂ e
Budget 2000 – 2049 (Meinshausen et al)	1000	800
- Less amount consumed to 2019 (575 Gt)	425	225
- Less amount committed in existing approvals (Developed reserves 420 Gt: 190 Gt Oil, 40 Gt Gas, 200 Gt Coal))	5	-205

le No New Fossil Fuels consistent with Paris Agreement



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IPCC Special Report - Global Warming of 1.5C

Without carbon capture and storage, the scenario that saves the last remaining 10%-30% of coral cover is a:

78% reduction in thermal coal by 2030 and a 97% reduction by 2050

(relative to 2010) (p16 Summary for Policy Makers)

No credible pathway to 2C with thermal coal

Australian Laws

Only country in the world to repeal a carbon price

Only country in the world to reduce a renewables target

Signed and ratified Paris Agreement but commitment of 26-28% reduction on 2005 levels is equivalent to 3C.

Australian Emissions

- Domestic emissions 540mtpa
- Exported emissions (coal, LNG) 1.2 billion
- Australia is world's second largest thermal coal exporter (238mt in 2017)
- Fossil fuel expansion plans second only to China (Greenpeace 2013 "Point of no return")



eCLC Response

- Specialist environmental CLCs in each state (EDOs and EJA)
- Client requests focused on fossil fuels
- Advice and education large part of response but strong cases also litigation

eCLC Response

- Domestic emission cases:

1994 – EDONSW: Greenpeace Australia Ltd. v. Redbank Power Co. – GHG only one issue

2004 – EJA: Re ACF v Latrobe City Council – must consider impacts of GHG emissions

2010/11 – EDONSW: Peter Gray and Naomi Hodgson v. Macquarie Generation (and appeal) – no implied limit to GHG emissions

eCLC Response

- Domestic emission cases:

2012 – EJA: Dual Gas Pty. Ltd. and Others v. Environment Protection Authority

– stringent net reduction condition maintained

2012 – EDONSW: Hunter Community

Environment Centre Inc. v. Delta Electricity – fly ash considered

eCLC Response

- Exported emission cases:

2006 – EDONSW: Grey v Minister for Planning
– exported emissions relevant consideration

2006 – EDONQ: WPSQ v Minister for
Environment – no causal link coal/climate

2006 – EDONSW: Anvil Hill Project Watch
Association v. Minister for the Environment and
Water Resources – coal mine not controlled

2007 – EDOQld: QCC v Xstrata – climate
change uncertain

eCLC Response

2011 – EDONSW: Hunter Environment Lobby Inc. v. Minister for Planning- no offset condition

2012 – EDOQld: FOEB v Xstrata – climate change relevant consideration

2013 – EDONSW: Bulga Milbrodale Progress Association v. Warkworth Mining
– climate change relevant consideration

2016 – EDOQld: CCAQ v Hancock – exported emissions relevant consideration

2019 – EDONSW: Gloucester Resources Limited v. Minister for Planning

eCLC Response

- Corporate social responsibility cases:

2017 – EJA: Abrahams v. Commonwealth Bank of Australia (withdrawn)

2018 – EJA: McVeigh v Retail Employees Superannuation Trust (undecided)

eCLC Response

- The future:
- More litigation as climate becomes more pressing issue
- More areas of law: human rights, torts, etc
- More issues: air pollution, fly ash disposal, water use

Conclusions

- no new fossil fuels consistent with protecting last remnants of coral reefs
- Government responses inadequate, leading to increased community challenges in Courts
- eCLCs have provided education, advice and representation for clients concerned with fossil fuels, with increasing success