



# Centre for Environmental Rights

## Advancing Environmental Rights in South Africa

To:  
**The Minister of Forestry, Fisheries and the Environment**  
Hon Barbara Creecy  
Per email: [bmbuli@environment.gov.za](mailto:bmbuli@environment.gov.za)

And to:  
**The Acting Deputy Director-General Climate Change and Air Quality**  
Mr Jongikhaya Witi  
Per email: [jwiti@environment.gov.za](mailto:jwiti@environment.gov.za)

And to:  
**Chief Directorate – Climate Change Adaptation**  
Mr Tlou Ramaru  
Per email: [tramaru@environment.gov.za](mailto:tramaru@environment.gov.za)

Our ref: BA/NL  
18 May 2022

**URGENT**

Dear Honourable Minister Creecy, and Messrs Witi and Ramaru

### **URGENT REQUEST FOR INFORMATION RELATING TO CLIMATE CHANGE BILL B9-2022**

1. We address you on behalf of [groundWork](http://www.groundwork.org.za/)<sup>1</sup> and [Earthlife Africa](http://earthlife.org.za/),<sup>2</sup> and represent the [Life After Coal/Impilo Ngaphandle Kwamalahle Campaign](https://lifeaftercoal.org.za/) (“the Campaign”),<sup>3</sup> a joint campaign by Earthlife Africa, groundWork, and the [Centre for Environmental Rights](https://cer.org.za/)<sup>4</sup> in making these comments. The Campaign aims to discourage the development of new coal coal-fired power stations and mines; reduce emissions from existing coal infrastructure and encourage a coal phase-out; and enable a just transition to sustainable energy systems for the people.
2. We refer to the workshop on the 2022 Climate Change Bill (“the Bill”) presented by the Minister and the Department of Forestry, Fisheries and Environment (“the Department”), to the Portfolio Committee: Environment, Forestry and Fisheries on Friday 13 May 2022, and certain statements made on this occasion.
3. The urgency of this request is predicated on the stage of the legislative process of the Bill, and in particular the call for comments by 27 May 2022, issued by the Portfolio Committee. We, and our clients, are advocating for a Bill that is robust, fit-for-purpose and effective in empowering and facilitating an appropriately urgent and strong climate change response. As such, the information sought will inform this work and is vital for all stakeholders to be able to meaningfully engage with the Bill and SA’s planned climate response.

<sup>1</sup> See <http://www.groundwork.org.za/>.

<sup>2</sup> See <http://earthlife.org.za/>.

<sup>3</sup> See <https://lifeaftercoal.org.za/>.

<sup>4</sup> See <https://cer.org.za/>.

Cape Town: 2<sup>nd</sup> Floor, Springtime Studios, 1 Scott Road, Observatory, 7925, South Africa  
Johannesburg: G/F the Cottage, 2 Sherwood Road, Forest Town, Johannesburg, 2193, South Africa  
Tel 021 447 1647 (Cape Town)  
[www.cer.org.za](http://www.cer.org.za)

## **The recommendation to remove Schedule 3 from the Bill**

4. We note the recommendation by the Minister and the Department to the Portfolio Committee that Schedule 3 of the Bill be removed on the basis that it is outdated when measured against the latest climate change science. While we cautiously welcome the removal of South Africa's 2015 Nationally Determined Contribution as an interim greenhouse gas emissions trajectory – based on, *inter alia*, its wholly inadequate ambitions and targets - we did not note any recommendation about replacing the contents of Schedule 3 with an alternative, such as for instance the 2021 NDC update and we do not support the removal of provisions in Bill that provide for a national emissions trajectory that is recognised in legislation.
5. The removal of Schedule 3 without substitute will result in the untenable situation of having no emissions trajectory, rendering the Bill highly ineffectual in terms of emissions reduction measures for purposes of keeping global warming within safe limits and ensuring compliance with our international commitments and obligations in terms of the Paris Agreement. This aspect is aggravated by the fact that the current Bill does not provide any deadlines or timeframes for the determination of a national greenhouse gas emissions trajectory, potentially leaving our climate response with a dangerous vacuum.
6. We need to place on record that, while we believe that the replacement of the 2015 NDC with the 2021 NDC update would be preferable to having no interim emissions trajectory, we view the 2021 NDC update as deficient in terms of limiting warming to safe levels and ensure adequate protection of various constitutional rights in this regard. We will more fully be addressing this issue via the appropriate channels in future, and would also welcome the opportunity to discuss these concerns with yourselves.
7. We request clarity from yourselves as to whether there is an intention that the recommended removal of Schedule 3 will be accompanied by a recommended substitution, or that there is simply an intention to remove it entirely. In the case of the latter, what are the intentions regarding an interim greenhouse gas emissions trajectory?

## **National Adaptation Strategy and Plan**

8. At the said workshop, a statement was made that we understood to potentially mean that the national adaptation strategy and plan (NASP) as envisaged by the Bill has already been created. Is this a new NASP as envisaged by the Bill or was the reference perhaps in respect of the already-published 2019 National Climate Change Adaptation Strategy (NCCAS) or some other plan or document?
9. Some of our major concerns with the Bill as currently formulated, are the long lead times and deadlines for the finalisation of this and other key adaptation plans and documents. As we know, climate change impacts are intensifying and the need to be prepared with key adaptation and response measures cannot be overstated. We request access to the plan that was referred to, in the event that it is something other than the NCCAS referred to above.

## **Regulations to be made in terms of the Bill**

10. We understand that the Bill is intended as framework legislation, and by design therefore will have many key mechanisms described and effected via regulations yet to be made. Our concern is again based substantially on the lack of deadlines for various measures – allocating carbon budgets, determining sectoral emissions targets and a national greenhouse gas emission trajectory to name a few. It is important that stakeholders have insight into the work-plans and expected timeframes for the making of regulations and we request reasonable access to any details that you are able to provide as well as drafts of the regulations as soon as possible. Importantly, stakeholders need access to these draft regulations in order to obtain a full picture of SA's planned climate response. Without these key regulations, we are very much in the dark as to many key aspects of the Bill and the planned legislative regime to regulate SA's climate response. Without this, therefore, it is impossible to participate meaningfully and effectively in the public participation process for the Climate Bill.

## **Socio-economic impact assessment**

11. At the workshop it was stated that an updated socio-economic impact assessment for the Bill has been undertaken this year. We request access to the assessment, as this is a crucial document to inform engagement and consideration of the Bill and SA's climate response.

## **Conclusion**

12. We request that you revert to us with the requested information and records as soon as possible and preferably by Tuesday 24 May 2022 for purposes of our and our clients' comments on the Bill due 27 May 2022. We would also be happy to meet with you to discuss any of this further.

Yours faithfully

**CENTRE FOR ENVIRONMENTAL RIGHTS**



per:

**Brandon Abdinor**

Climate Advocacy Lawyer

Direct email: [babdinor@cer.org.za](mailto:babdinor@cer.org.za)