SUSTAINABLE ENERGY AFRICA

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The Director-General: Department of Environmental Affairs
Attention: Ms. Dineo Ngobeni

CLIMATE CHANGE BILL, 2018

Comment from Sustainable Energy Africa

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1. Introduction

1.1 **Sustainable Energy Africa (SEA)** is a Section 21 (not for profit) company that promotes the development of an equitable low carbon, clean energy economy in South Africa and Africa. For the past eighteen years SEA has worked closely with cities in South Africa, supporting their transition to a just, low-carbon pathway through undertaking extensive research, building capacity as well as 'hands-on' sustainable energy implementation. In more recent years, SEA has supported municipalities, metros, secondary cities and district municipalities, in collaboration with the Department of Environmental Affairs, SALGA and COGTA to develop and mainstream climate change plans. A key value base informing SEA's work is enhancing social and economic development through sustainable energy for development and climate mitigation and resilience. Further information on SEA can be obtained from our website: www.sustainable.org.za, or www.cityenergy.org.za.

1.2 SEA thanks the Department of Environmental Affairs for the opportunity to comment on the Climate Change Bill, 2018 published 8 June 2018, Government Gazette no. 41689. The following comment is entirely that of SEA based on its experience in the sector.

1.3 SEA supports DEA on the overarching objectives of the Bill, which call for strong cooperative governance in responding to climate change mitigation and adaptation through a coordinated and integrated response which is undertaken in a just manner.

1.4 SEA also welcomes the responsibility and accountability placed on the different spheres of government. Government is the key body responsible for providing an enabling environment for local climate action, as well as being the main implementers thereof. This Bill provides important powers to DEA to ensure alignment throughout the state towards the national climate change objectives including our Nationally Determined Contributions at the international level.

1.5 We thank DEA for acknowledging the role of local governments as essential role-players in reducing emissions, as well as recognising the need for municipalities to proactively develop climate response approaches that are congruent to their unique characteristics and needs.

2. Comments

While SEA acknowledges that the Bill is a high-level framework, and that much of the detail will be reflected in the plans and mechanisms to follow, we would like to raise the following for consideration:

a. With respect to climate change mitigation response, the Bill needs to express and distinguish the top GHG emission sectors and their focal points of responsibility. For example, the electricity sector is central to this discussion as it is the dominant sector responsible for the majority of the country's GHG emission. 53% of emissions are produced from electricity generation (DoE, 2013)[1].Thus the responsibility of the energy provider, in this case being the state-owned enterprise, Eskom, needs to be highlighted in order to provide perspective on roles and responsibilities of stakeholders across the country. It is also important to note that due to the regulatory limitations that govern electricity supply, businesses and households will not be able to reduce their emissions significantly if there is no transformation in electricity generation. Cumulatively, emissions from electricity generation, industry and road transport sectors make up over 78% of the emissions (DoE, 2013).

b. The development of targets through the determination of carbon budgets introduces a complex system that needs to be resourced in order for it to be enforced accordingly. Government is currently under-resourced and SEA therefore questions whether resources should be further diverted to enforce the carbon budget, and given this limitation, whether this system would be an effective measure in responding to international emissions reductions agreements. Bold action by government to decarbonise the electricity generation sector, regulate a low carbon built environment, facilitate low carbon transport infrastructure would achieve the majority of what is required.

c. The Bill should reflect that these priorities will receive the greatest attention. The concern is that much time and money could be spent in undertaking carbon budget processes while known responsibility can and must be addressed immediately. The Bill does not articulate the current status of the economy, poverty and inequality in the country; the developmental state; nor does it reflect the complex relationship the economy has with energy. Furthermore, it does not mention how the country will address challenges that will be experienced as a result of the transition, for example the job losses and decline of carbon intensive industries. The Bill, if it is to be at all credible and unifying, needs to be constructed pragmatically, explicitly and candidly, around the reality of our emissions profile, our economy and the just transition.

d. Municipalities face severe funding and capacity constraints in planning, implementing and monitoring climate resilience projects. While many municipalities have or are in the process of developing plans, these two constraints are currently a major impediment to successful implementation. The Bill holds local government accountable but does not include if and how municipalities will be supported with the necessary resources (human and financial) to achieve resilience. The National Climate Change Response White Paper of 2012 states that the government will priortise the development of comprehensive resources and investment mobilisation strategies, capacities, mechanisms or instruments that support and enable implementation at scale. This commitment needs to be articulated in the Bill as it was in the 2012 White Paper.

e. Access to funding for climate resilience projects, in particular, capital expenditure for the installation/implementation of renewable energy and energy efficiency projects are a barrier due to the high costs. Even where low-carbon technology is least cost it can be capital intensive. The

[1] Department of Energy, 2013. GHG Inventory for South Africa 2000-2010.

development of support agencies linked to provision of easy-access climate finance for high capital cost of efficient public infrastructure should be supported and supplemented through national budgets to facilitate low-carbon infrastructure retrofit. This intention should be specifically mentioned in the Bill, as suggested in the point below.

f. The Bill should emphasise support rather than regulation for affected parties. Agencies such as the South African Bureau of Standards could and should play a key role in the vetting and evaluation of products. Considerable skills and knowledge has developed in ESCOs and these could be harnessed in knowledge and service hubs. Such a function was, for example, performed by the Carbon Trust in a previous UK government which produced detailed technology support tools for local government and industry.

g. Given the municipal constraints mentioned above in (d), the formulation of separate climate change plans and its periodic review, further adds to the burden of municipalities. The National Climate Change Response White Paper of 2012, calls for climate change plans to be mainstreamed and integrated into current planning documents in the three spheres of government - in the case of municipalities this would be the Integrated Development Plan and related sector plans. The DEA Let's Respond Toolkit, 2012, was developed to guide municipalities in mainstreaming climate resilience into IDPs, and the CSIR are currently developing a Green Book for ensuring that climate responsive development planning integrated. Therefore, this integration should be sufficient to act as the plan, without needing to develop additional plans. The time cycles for the development and review of these plans should thus coincide with the IDP cycles.

h. The Ministerial Committee on Climate Change should include organised local government bodies. The National Climate Change Response White Paper of 2012 calls for SALGA, as the mandated body supporting and representing the voice of municipalities to actively participate in the inter-governmental system, as well as lobby for necessary regulatory measures and resources to support local government. Therefore, SALGA should be part of this process to represent the needs of municipalities. SEA also strongly supports the inclusion of all the metropolitan municipalities, who are largely the drivers and implementers of climate change action at the local level, and who are most affected by the sector emissions targets which are top-down driven.

i. The development of the Bill provides an opportune time for the alignment of other government policy relating to climate change and energy. This includes the IRP, IEP, National Building Regulations etc., all of which are under review and should thus integrate the objectives and elements of the Bill and vice versa. The proposed mechanism for alignment caters for this. Commitment to act quickly and opportunely would be welcomed.

j. The Bill does not mention how it aligns to the proposed Carbon Tax. Clarification is required on whether and how it will be linked to the Tax which will further penalise institutions for GHG emissions. Will institutions be double burdened to pay emissions taxes in addition to penalties if they exceed the carbon budget?

k. Small and medium enterprises are an important sector economic sector that needs to be supported rather than penalised. The Bill needs to consider this sector separately, especially with regards to the hefty penalties.

l. Consultation and Public Participation - the National Climate Change Response White Paper of 2012, also calls on civil society to play a critical role in climate change. Thus civil society, as the fourth sphere of government, needs to be engaged with, in a much more meaningful way using a bottom-up way as opposed to top-down directed consultation.

3. Conclusion

1. SEA sees the Bill as an important step to giving much-needed traction to climate change to enable long-term accountability of the state as a whole, distinguished by the three spheres of government.
2. However, in order to achieve the goals of reducing emissions, a realistic view of the role of the electricity sector must be included such that the penalisation of local government, the private sector and the general public, who are held hostage through the coal burden and the monopolisation of the sector, can be put in perspective. SEA trusts that the carbon budgets which are yet to be formulated will be just and based on feasibility.
3. Regulatory reform and transformation of the electricity sector is thus key to reducing GHG emissions, and should precede the Act.
4. The Bill requires a strong institutional set up to ensure that it is given the power that is required to be successfully implemented. All spheres of government should be engaged strongly. There is currently a successful climate change forum that is convened by DEA which should be incorporated into the Ministerial Committee. Public participation is also crucial.
5. It is critical that the Bill create an enabling environment for positive movement during the transition to a low-carbon development and thus also speak to empowering local government and business, vulnerable small and medium enterprises in particular, in order for compliance/transition to be achieved.
6. Municipalities require funding which is easily accessible, and skills to implement the Bill, and this limitation must be taken into account.
7. Environmental legislation is difficult to implement by its nature and the more so in a poorly performing economy and so the Bill should be far more specific about implementation structures.