



**Legislative Assembly for the  
Australian Capital Territory**

Standing Committee on Environment,  
Climate Change and Biodiversity

# **Inquiry into Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022**

Legislative Assembly for the Australian Capital Territory  
Standing Committee on Environment, Climate Change and Biodiversity

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Approved for publication

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Report 5  
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# About the committee

## Establishing resolution

The Assembly established the Standing Committee on Environment, Climate Change and Biodiversity on 2 December 2020.

The Committee's areas of responsibility are:

- Climate change
- Climate action
- Environment
- Heritage
- Water and energy policy and programs
- Emissions reductions
- Environment and ecological sustainability
- Commissioner for the Environment
- Environment Protection Agency
- Parks and Conservation

You can read the full establishing resolution [here](#).

## Committee members

Dr Marisa Paterson MLA, Chair

Ms Jo Clay MLA, Deputy Chair

Mr Ed Cocks MLA

## Secretariat

Ms Joanne Cullen, Committee Secretary (until 12 September 2022)

Ms Kate Mickelson, Acting Committee Secretary (from 12 September 2022)

Ms Miona Ikeda, Assistant Secretary

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## About this inquiry

The Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022 was presented in the Assembly on 4 August 2022. It was then referred to the Standing Committee on Environment, Climate Change and Biodiversity as required by clause 5 of the establishing resolution. This clause allows committees to inquire into and report on bills within two months of their presentation.

The Committee decided to inquire into the Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022 on 9 August 2022.

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# Acronyms and abbreviations

Acronym	Long form
ACT	Australian Capital Territory
ACTCOSS	ACT Council of Social Service
AM	Member of the Order of Australia
The Act	Climate Change and Greenhouse Gas Reduction Act 2010
The Bill	Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022
The Committee	Standing Committee on Environment, Climate Change and Biodiversity
EPSDD	Environment, Planning and Sustainable Development Directorate
The Minister	Minister for Water, Energy and Emissions Reduction
MLA	Member of the Legislative Assembly
QTON	Question Taken on Notice
RMIT	Royal Melbourne Institute of Technology
Scrutiny Committee	Standing Committee on Justice and Community Safety (Legislative Scrutiny)
Scrutiny Report	Scrutiny Report No. 20
SLA	Suburban Land Agency

# Recommendations

## Recommendation 1

The Committee recommends that the ACT Government ensure there is support given to financially disadvantaged members of the community when disconnecting gas users from the Territory's gas network.

## Recommendation 2

The Committee recommends that the ACT Government provide considerable consultation and education around the transition for small developments (that is, single residences in existing suburbs), and allow for transition timelines that will ensure that existing construction contracts are not impacted.

## Recommendation 3

The Committee recommends that the ACT Government in regulation:

- prioritise urban infill large-scale development sites; and
- specify the areas and premises for which gas distributors must not provide new gas connections.

## Recommendation 4

The Committee recommends that the ACT Government increase awareness and educate the ACT community on greenhouse gas reduction and natural gas transition.

## Recommendation 5

The Committee recommends that the Bill be amended to specify in legislation:

- criteria for selecting the areas and premises for which gas distributors must not provide new gas connections; and
- the dates and timeframes for when the transitions are to occur.

## Recommendation 6

The Committee recommends that the Bill be amended so that the words 'and the ACT electricity and gas distributor' are included in Part 2A, to amend the wording for Part 2A to 'Before a regulation is made for this section, the Executive must seek, and have regard to, the advice of the Chief Planning Executive and the ACT electricity and gas distributor about the proposed regulation.'

## Recommendation 7

The Committee recommends that, subject to the amendments proposed in this report, the Assembly pass the Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022.





# 1. Introduction

## Background to the Bill

- 1.1. The *Climate Change and Greenhouse Gas Reduction Act 2010* (the Act) provides for the development of policies and practices to address climate change, sets targets to reduce greenhouse gas emissions, and provides for monitoring and reporting in relation to the targets.<sup>1</sup>
- 1.2. The Act facilitates policy, regulation, and program development to allow the ACT to meet its emission reduction targets. Through the Act, the ACT has set the following interim greenhouse gas reduction targets:
- 50-60 percent less than 1990 emissions by 30 June 2025;
  - 65-75 percent less than 1990 emissions by 30 June 2030; and
  - 90-95 percent less than 1990 emissions by 30 June 2040.<sup>2</sup>
- 1.3. The principal ACT target is to reduce greenhouse gas emissions in the ACT to achieve zero net emissions by 30 June 2045.<sup>3</sup>
- 1.4. To meet the targets set out in the Act, the ACT Government has committed to phasing out new natural (fossil) gas mains connections to premises, such as land, homes and buildings, in specific circumstances.<sup>4</sup> Natural gas is a fossil fuel and accounts for approximately 20 percent of the ACT's current greenhouse gas emissions.<sup>5</sup>
- 1.5. The Territory's commitments to phasing out new gas connections are outlined in the *Parliamentary and Government Agreement for the 10th Assembly of the Australian Capital Territory* and the *ACT Climate Change Strategy 2019-25*.<sup>6</sup>
- *The Parliamentary and Government Agreement for the 10th Assembly of the Australian Capital Territory* includes several projects in Appendix 1A1: Next steps on climate action, including:
    - Legislate to prevent new gas mains network connections to future stages of greenfield residential development in the ACT in 2021-22.
    - Commence a transition project, working with industry and other stakeholders, to advance all-electric infill developments, with a goal of no new gas mains network connections to future infill developments from 2023.<sup>7</sup>

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<sup>1</sup> Climate Change and Greenhouse Gas Reduction Act 2010, p 1.

<sup>2</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 1.

<sup>3</sup> Climate Change and Greenhouse Gas Reduction Act 2010, p 4.

<sup>4</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 1.

<sup>5</sup> ACT Government, [Powering Canberra: Our Pathway to Electrification – ACT Government Position Paper](#), p 5.

<sup>6</sup> ACT Government, [Parliamentary and Government Agreement for the 10th Assembly of the Australian Capital Territory](#), p 7; ACT Government, [ACT Climate Change Strategy 2019-25](#), p 10.

<sup>7</sup> ACT Government, *Submission 6*, p 1.

- The *ACT Climate Change Strategy 2019-2025* sets the initial pathway for the Territory to achieve zero net emissions by 2045. The *ACT Climate Change Strategy 2019-2025* includes timelines with appropriate transition periods for phasing out new and existing gas connections.<sup>8</sup>
- 1.6. On 4 August 2022, the ACT Government released the *Powering Canberra: Our Pathway to Electrification (ACT Government Position Paper)*. This paper outlines that the ACT's transition from fossil fuel gas will be led by electrification.<sup>9</sup>
  - 1.7. The *Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022* (the Bill) amends the *Climate Change and Greenhouse Gas Reduction Act 2010* to give effect to the ACT Government's intention to phase out new natural (fossil) gas connections and meet emissions reductions targets over the long term.<sup>10</sup>
  - 1.8. The Bill will amend the *Climate Change and Greenhouse Gas Reduction Act 2010* to create a new regulation-making power that would enable new natural gas connections to be prohibited in prescribed circumstances.<sup>11</sup>
  - 1.9. These new amendments to the Bill will be further discussed in **Chapters 2 and 3**.

## Conduct of the inquiry

- 1.10. The Committee issued a call for submissions on 12 August 2022, which closed on 30 August 2022. A total of ten submissions was received by the Committee. A list of all the submissions is provided at **Appendix A**.
- 1.11. The Committee held a public hearing on 13 September 2022 and heard from the Minister for Water, Energy and Emissions Reduction, ACT Government officials and the Suburban Land Agency. A list of witnesses who appeared before the Committee is provided at **Appendix B**. The transcript of proceedings is accessible [here](#).
- 1.12. There was one Question Taken on Notice (QTON) from the public hearing. The details of the QTON are provided at **Appendix C**.
- 1.13. The Committee met on 27 September 2022 to consider the Chair's draft report, which was adopted on the same day, for tabling on 6 October 2022.

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<sup>8</sup> ACT Government, *Submission 6*, p 1.

<sup>9</sup> ACT Government, *Submission 6*, p 1.

<sup>10</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 2.

<sup>11</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 1.

## 2. Amendments to the Bill and Legislative Scrutiny

- 2.1. This Chapter will discuss the amendments proposed to the Bill, along with comments from the Standing Committee on Justice and Community Safety (Legislative Scrutiny) (Scrutiny Committee).
- 2.2. In its summary of the Bill, the Scrutiny Committee stated in Scrutiny Report No. 20<sup>12</sup> (the Scrutiny Report) that:

The Bill will amend the *Climate Change and Greenhouse Gas Reduction Act 2010* to create a new regulation-making power that would enable new natural gas connections to be prohibited in prescribed circumstances. This will give effect to the ACT Government's intention to phase out new natural (fossil) gas connections and meet emissions reductions targets over the long term.<sup>13</sup>

- 2.3. The Scrutiny Report highlighted two major issues with the proposed Bill:
- proposed new section 13A – which will allow for a regulation to restrict new natural gas connections to the gas distribution network in prescribed circumstances; and
  - proposed new section 13B – which will provide the ability to modify the operation of certain national laws within the ACT to the extent required to give effect to a regulation made under new section 13A.<sup>14</sup>

### New Part 2A: Natural Gas Connections

- 2.4. The Bill makes several amendments by adding a new part 2A to the Act. The new part 2A, Natural Gas Connections, will insert new sections 13A and 13B:
- Section 13A will enable regulations to prescribe areas, or stated premises in an area, in which new gas connections for natural gas will generally be prohibited.
  - Section 13B will enable regulations to modify two national laws – the National Energy Retail Law (ACT) and the National Gas (ACT) Law.<sup>15</sup>

### New Section 13A

- 2.5. New section 13A(1) creates a regulation-making power that could restrict the provision of new natural gas connections in prescribed circumstances.<sup>16</sup>

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<sup>12</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022.

<sup>13</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 2.

<sup>14</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 2.

<sup>15</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 2.

<sup>16</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 7.

- 2.6. New section 13A(2) requires that the Executive seek and have regard to advice of the Chief Planning Executive prior to making a regulation under new section 13A(2). The explanatory statement to the Bill explains that this section has been included ‘to ensure that the Executive is made aware of any planning concerns prior to a regulation being made.’<sup>17</sup>
- 2.7. New section 13A(3) provides that compliance with Part 2A is a condition of the gas distributor’s utility licence. The explanatory statement to the Bill explains that this section ‘provides scope for compliance monitoring and enforcement through the *Utilities Act 2000*.’<sup>18</sup>
- 2.8. New section 13A(4) provides definitions for the purposes of new section 13A. It provides a definition of natural gas to include natural gas blends. The definition of natural gas provides an avenue for a regulation to exclude a specific gas, for example a particular natural gas and renewable gas blend, or biogas, which is chemically similar to natural gas, if required. The definitions also set out that the provisions are ‘for new connections only and are not intended to extend to retail customer transfers of existing connections, or to prevent maintenance or alterations of existing connections.’<sup>19</sup>
- 2.9. Matters raised in the Scrutiny Report are discussed in the sections below.

### Natural gas prohibition areas

- 2.10. The Bill will enable regulations to prescribe areas, or stated premises in an area, in which new gas connections for natural gas will generally be prohibited. Compliance with the prohibition will be a condition of a gas distributor’s licence.<sup>20</sup>
- 2.11. A new gas connection will be defined to include providing a new gas connection to premises, including to vacant land, providing additional points of supply or reinstatement of previously removed connections.<sup>21</sup>
- 2.12. However, the Scrutiny Report raised concerns for the power to make regulations:

The Bill does not ... set out the basis on which areas or stated premises will be selected for inclusion in any prohibition of new gas connections.

It is not clear to the [Scrutiny] Committee how the areas or stated premises in which new gas connection will be prohibited will be selected, and why it was not possible to include criteria governing that selection in the Bill...<sup>22</sup>

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<sup>17</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 7.

<sup>18</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 8.

<sup>19</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 8.

<sup>20</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 1.

<sup>21</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 1.

<sup>22</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 2.

## New Section 13B

- 2.13. New section 13B(1) provides that a regulation may modify the operation of the National Energy Retail Law (ACT) and National Gas (ACT) Law. These provisions are required to ensure that a gas distributor does not breach national energy laws by not offering or providing gas connection services in circumstances prescribed by a regulation made under this Act. New section 13B(2) operates to limit a regulation made under new section 13B(1) to modifications only for the purpose of giving effect to new section 13A.<sup>23</sup>
- 2.14. New section 13B(3) provides that a regulation may require a gas distributor to provide information to existing or potential customers and to the Territory. The intent of this section is to ensure compliance information can be sought, but also that the distributor can be asked to publish or provide information on areas where new natural gas connections may not be available.<sup>24</sup>
- 2.15. Matters raised in the Scrutiny Report are discussed in the sections below.

## The National Energy Retail Law (ACT) and National Gas (ACT) Law

- 2.16. The Bill will enable regulations to modify two national laws – the National Energy Retail Law (ACT)<sup>25</sup> and the National Gas (ACT) Law.<sup>26</sup>
- 2.17. This provision will enable regulations for the purpose of giving effect to the prescription of areas or stated premises in which new gas connections are prohibited. This may include regulations requiring gas distributors to provide information about the distributor's compliance with the prohibition of on new gas connections or setting out information that must be given to existing or potential customers.<sup>27</sup>
- 2.18. However, the Scrutiny Report raised concerns that this provision will enable the making of regulations which have the effect of modifying the operation of Territory laws – that is, the provision being a form of a 'Henry VIII clause'.
- 2.19. A provision in an Act that allows for delegated laws to amend an Act of Parliament is known as a 'Henry VIII clause'.<sup>28</sup>
- 2.20. As 'Henry VIII clauses' allow delegated legislation to amend the primary legislation, they detract from the legislative power of the Legislative Assembly.<sup>29</sup>

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<sup>23</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 8.

<sup>24</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 8.

<sup>25</sup> The National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011 (SA)* is applied as if it was a law in the ACT, see *National Energy Retail Law (ACT) Act 2012*, s 6.

<sup>26</sup> The National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008 (SA)*, is applied as if it were a law in the ACT, see the *National Gas (ACT) Act 2008*, s 8.

<sup>27</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 2.

<sup>28</sup> Australian Law Reform Commission, [Traditional Rights And Freedoms—Encroachments By Commonwealth Laws \(ALRC Interim Report 127\)](#), Chapter 16: Delegating Legislative Power, 3 August 2015, p 442.

<sup>29</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Henry VII clauses](#), November 2011, p 3.

- 2.21. A paper delivered to the 2011 Australia-New Zealand Scrutiny of Legislation Conference stated:

Henry VIII powers provide the executive with a power to override primary legislation by way of delegated legislation. The practical significance of Henry VIII clauses lies in the loss of the public scrutiny and accountability for policy decisions that would usually occur when primary legislation is made by Parliament. In other words, matters of policy can be determined by the executive without the effective scrutiny of Parliament.<sup>30</sup>

- 2.22. In this case, the provision to enable the making of regulations which have the effect of modifying the operation of Territory laws in the Bill would mean the Legislative Assembly has no control over the form of the regulation or when it takes effect.

- 2.23. Enabling the modification of the two national laws is described in the explanatory statement to the Bill as:

...required to ensure that a gas distributor does not breach national energy laws by not offering or providing gas connection services in circumstances prescribed by a regulation made under this Act.<sup>31</sup>

- 2.24. However, the Scrutiny Report again raised concerns for the power to make regulations:

It is not clear to the [Scrutiny] Committee why it is necessary to provide for modification of the two National laws in regulations rather than in the Bill itself.<sup>32</sup>

- 2.25. The Scrutiny Committee further noted that section 3 of the National Energy Retail Law states 'The National Energy Retail Law, the National Regulations and the Rules apply in this jurisdiction except to the extent provided by or under the application Act of this jurisdiction or any other Act of this jurisdiction.'<sup>33</sup>

- 2.26. This provision suggests that any amendment to the National Energy Retail Law is expected to be by way of enactment rather than regulations or other form of subordinate legislation.<sup>34</sup>

- 2.27. The Scrutiny Committee has requested further information from the Minister for Water, Energy and Emissions Reduction on why the proposed prohibition of new gas connections and modification of the listed National laws requires the enablement of regulation-making powers as provided in the Bill.

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<sup>30</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Henry VII clauses](#), November 2011, p 3.

<sup>31</sup> Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, *Explanatory Statement*, p 8.

<sup>32</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 2.

<sup>33</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 2.

<sup>34</sup> Standing Committee on Justice and Community Safety (Legislative Scrutiny), [Scrutiny Report No. 20](#), 13 September 2022, p 3.

### 3. Issues raised in evidence

- 3.1. This Chapter sets out the issues raised on the Bill in evidence received by the Committee in submissions and at the public hearing.
- 3.2. It outlines support for the Bill from a range of stakeholders and discusses some of the concerns raised about the broader context of the Bill by stakeholders, along with the Committee's views and recommendations.

#### Support for the Bill

- 3.3. Evidence received by the Committee generally supported the ACT Government's commitment to transition to zero net emissions.<sup>35</sup>
- 3.4. In its submission to the inquiry, ACT Council of Social Service (ACTCOSS) strongly supported the ending of gas connections to new developments (including multi-unit residential complexes and individual homes) and new greenfield suburbs:

The ACT has a high reliance on gas, with more than 131,000 households and businesses connected to Canberra's gas network. ACT residential and small business gas consumers have faced uncertainty around Canberra's energy transition and the future of gas, but this Bill provides us with a clear timeframe. This new certainty is welcomed by ACTCOSS.<sup>36</sup>

- 3.5. The Conservation Council ACT Region also supported the proposed amendment to the Act, which would 'enable creation of a regulation-making power that modifies the application of the national energy laws to limit new natural (fossil) gas mains connections.'<sup>37</sup>

#### Concerns raised in evidence

- 3.6. A number of concerns were raised about the broader context of the Bill in evidence received by the Committee, including:
- societal inequality;
  - transitional issues;
  - insufficient consumer education and advice; and
  - excessive powers to the Executive.

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<sup>35</sup> See, for example: Alan Pears AM, *Submission 2*; Master Plumbers Association (ACT), *Submission 3*; ACT Council of Social Service, *Submission 8*; Conservation Council ACT Region, *Submission 9*; Evoenergy, *Submission 10*.

<sup>36</sup> ACT Council of Social Service, *Submission 8*, p 2.

<sup>37</sup> Conservation Council ACT Region, *Submission 9*, p 2.

## Societal inequality

- 3.7. It was suggested in evidence that shifting the onus of electrification onto individuals significantly disadvantages people who are vulnerable, especially those in low-income households.
- 3.8. In its submission, the Master Plumbers Association (ACT) stated that there would be a ‘shockwave driving societal inequality’, with the shift of electrification costs and ownership from government to individuals:

This trajectory significantly disadvantages those who have the least ability to fund ‘private electrification’, and there is currently no planned support to ensure a fair and just transition for the less financially advantaged members of the community.<sup>38</sup>

- 3.9. In its submission, ACTCOSS stated that the ACT Government must work with the energy sector, developers, landlords, renters and their representatives, Housing ACT, community housing providers, homeowners, the community sector, business, and other stakeholders, to ensure the phasing out of natural gas is fair and just for everyone:

The ACT Government must [...] ensure that people on low incomes, in small business and facing other vulnerabilities are not stranded on the gas network at the latter end of the transition, saddled with higher costs as a result of supply charges being shared between fewer and fewer customers.<sup>39</sup>

- 3.10. ACTCOSS also gave evidence that the ACT has experienced price increases linked to the ACT’s move to renewable electricity, and that renters in particular are at high risk of being stranded in an increasingly expensive gas network:

Renters make up approximately one third of residents in the ACT. Landlords have little incentive to replace old, inefficient, gas appliances leaving renters saddled with the costs of inefficient appliances and homes. Policy around transition must ensure that these groups are not only not left behind but are the early beneficiaries of the transition to net zero emissions.<sup>40</sup>

- 3.11. Alan Pears AM, Senior Industry Fellow at RMIT University and Fellow at University of Melbourne, stated in their submission that the provision of finance is crucial:

Overall, households should benefit financially over time from a transition from gas. The fundamental challenges are the allocation of funds and management of equity. Landlords must be motivated, and vulnerable households helped. Even ‘wealthy’ households often have tight cashflow, and may need transitional support that can be repaid from savings.<sup>41</sup>

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<sup>38</sup> Master Plumbers Association (ACT), *Submission 3*, p 8.

<sup>39</sup> ACT Council of Social Service, *Submission 8*, p 2.

<sup>40</sup> ACT Council of Social Service, *Submission 8*, p 2.

<sup>41</sup> Alan Pears AM, *Submission 2*, p 4.



- 3.12. The Committee is of the view that the ACT Government should consider prioritising in policy the provision of assistance to those who are vulnerable, especially those in low-income households. This will ensure that there is a fair and just transition for all members of the community.

### Recommendation 1

The Committee recommends that the ACT Government ensure there is support given to financially disadvantaged members of the community when disconnecting gas users from the Territory's gas network.

## Transitional issues

### Knockdown-rebuilds

- 3.13. It was suggested in evidence that there is currently not enough clarity in relation to 'knockdown-rebuild' sites and whether existing construction contracts will be impacted immediately.<sup>42</sup>
- 3.14. One submission author wrote of the dilemma they are currently facing, as they were unsure what the upcoming legislation changes meant for their current knockdown-rebuild contract:

I have recently signed a contract for a knock down/rebuild in Watson. This will mean disconnecting the gas for the safe demolition of the existing house, and not reconnecting it until early next year once the new house is built. The contract includes provision for gas appliances. I'm now very concerned that I've financially committed myself to a building contract which I'm sure cannot be delivered before this legislation comes into effect.

I've asked my builder about the legislation, and he has advised that he's not heard anything regarding this legislation so is not taking any action at this time. How can he not know about it? Was there advice provided to builders?<sup>43</sup>

- 3.15. Another submission author expressed similar concerns, in relation to their ongoing knockdown-rebuild situation:

I support government policies that seek to mitigate and respond to climate change. However, those policies need to involve a transition that is fair, reasonable and takes account of the current reality faced by Canberrans who are trying to build new homes.<sup>44</sup>

- 3.16. During the public hearing on 13 September 2022, the Minister for Water, Energy and Emissions Reduction (the Minister), Mr Shane Rattenbury MLA, told the Committee that he

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<sup>42</sup> See, for example: Name withheld, *Submission 1*; Name withheld, *Submission 4*.

<sup>43</sup> Name withheld, *Submission 4*, p 1.

<sup>44</sup> Name withheld, *Submission 1*, p 1.

was aware of the aforementioned submissions, and people being concerned about ongoing knockdown-rebuild projects. The Minister told the Committee that:

Our [ACT Government's] intent is to prevent new gas connections, clearly. That is the intent of the bill. It is not about removing existing gas connections. This is very much about new gas connections.

...

Our intent is not to target people who are currently doing a knockdown and rebuild, but to create forward thinking and stop the problem from getting worse.<sup>45</sup>

- 3.17. The Minister also told the Committee that there seems to be a misunderstanding within the community that 'the government wants to pull out your gas appliances tomorrow':<sup>46</sup>

...I should add that is a really important part of the education is being clear with people that they have got a bit of time to do this. We are not saying to anybody, "Pull your gas appliance out tomorrow." The message is: "When your gas appliance reaches the end of its natural life, and it will, replace it with an electric one."<sup>47</sup>

- 3.18. When asked by the Committee whether that would mean current knockdown-rebuild situations would have to transition off gas, the Minister said that they would not have to make that transition right now:

...there is potentially a choice for the household. They could go all electric and not reconnect gas when they do their knockdown rebuild or they could choose to reconnect gas. We need to have a think about whether we want to incorporate knockdown rebuilds into the regulation or not.<sup>48</sup>

- 3.19. The Committee is of the view that communication to the public on transition timelines should be made clearer, to prevent confusion and misinformation surrounding the transition timelines. The ACT Government should provide more education to relevant stakeholders for small developments, such as owners and builders, to ensure that no one is unintentionally misled with the wrong information.

## Recommendation 2

The Committee recommends that the ACT Government provide considerable consultation and education around the transition for small developments (that is, single residences in existing suburbs), and allow for transition timelines that will ensure that existing construction contracts are not impacted.

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<sup>45</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 2.

<sup>46</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 3.

<sup>47</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 3.

<sup>48</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 4.

## Urban infill large-scale developments

3.20. During the public hearing the Committee asked the Suburban Land Agency (SLA) whether new infill large-scale developments should be prioritised in regulation, as these larger developments would be more complicated to retrofit in the near future when the distribution of fossil fuel gas will cease.

3.21. Mr Rob Thorman, Program Manager, Sustainability and Release Coordination at the SLA, told the Committee that, although the SLA ‘are not the experts in this matter [of regulation]’, the SLA has been encouraging developers not to connect gas at new infill sites:<sup>49</sup>

In our most recent releases of urban infill sites we have put in the deeds that the developer should not connect to gas—we have taken our cue from the ACT government policy—and also should include an EV, electric vehicle, charging provision. In reality, the enforceability of those clauses that we are putting into the deeds is in question. It could be challenged by the developer. But what we have done is the most powerful thing we can do at this point, in this transition period, to signify that this is the intent. This is in line with government policy.<sup>50</sup>

3.22. Mr Thorman added that as the SLA is only responsible for a small portion of the entire lifecycle of any development site, it is ‘waiting for the regulations to catch up ... so it becomes standard across all developments’.<sup>51</sup>

It is important to remember that, with the release of land for infill developments, we are responsible for only a small proportion of that. With a lot of the developments that are happening, a developer will buy the land privately. We looked at the issue and we said, “We can put this in our development clauses, but it would be better if there was a whole-of-ACT approach,” which is happening. But it takes time for the regulation to catch up.<sup>52</sup>

3.23. The Committee is of the view that the ACT Government should prioritise urban infill large-scale development sites in regulation, to commence a transition project with a goal of no new gas mains network connections to future infill developments from 2023, as per *The Parliamentary and Government Agreement for the 10th Assembly of the Australian Capital Territory*.

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<sup>49</sup> Mr Rob Thorman, Program Manager, Sustainability and Release Coordination, Suburban Land Agency, *Proof Committee Hansard*, p 16.

<sup>50</sup> Mr Rob Thorman, Program Manager, Sustainability and Release Coordination, Suburban Land Agency, *Proof Committee Hansard*, pp 15-16.

<sup>51</sup> Mr Rob Thorman, Program Manager, Sustainability and Release Coordination, Suburban Land Agency, *Proof Committee Hansard*, p 16.

<sup>52</sup> Mr Rob Thorman, Program Manager, Sustainability and Release Coordination, Suburban Land Agency, *Proof Committee Hansard*, p 16.

### Recommendation 3

The Committee recommends that the ACT Government in regulation:

- prioritise urban infill large-scale development sites; and
- specify the areas and premises for which gas distributors must not provide new gas connections.

## E-waste

3.24. Evidence received by the Committee highlighted the need to look into the issue of e-waste, in the context of concerns for the environmental impacts of transitioning off fossil fuel gas.<sup>53</sup>

3.25. During the public hearing the Minister told the Committee that it is an area for further development, as ‘we are in the infancy of our circular economy.’<sup>54</sup>

3.26. When asked by the Committee whether there is a national opportunity for the recycling to occur in Australia, the Minister said:

I think so. In the context of the disruption of the supply chain that we are seeing at the moment, there needs to be a strategic consideration of: of how do we do it? Look at the sorts of policies we have seen come out of China. They are not accepting people’s waste as much as they used to. The job creation opportunities in Australia, I think, are all very significant. I would like to see this done in Australia. I think it is incumbent upon governments, not just the ACT but all of us, to work together to create those opportunities and ensure that it happens here.<sup>55</sup>

3.27. The Committee is of the view that cross-jurisdictional agreements, underpinned by robust discussions with the Commonwealth Government, on e-waste recycling to occur in Australia will create both local and nationwide job opportunities.

## Insufficient consumer education and advice

3.28. Alan Pears AM, Senior Industry Fellow at RMIT University and Fellow at University of Melbourne, stated in their submission that comprehensive and well-resourced implementation of policies is critical in building public commitment. However, ‘policy makers seem to think that dumping information online and designing policies is enough’:

Where are the educators showing people how to use a wok on an induction cooktop? Where are the *independent* people to advise on the complexities and subtleties of positioning and using a reverse cycle air conditioner to deliver comfort? Where are the built-in features and advice that warn you when your reverse cycle unit is losing refrigerant or has a clogged filter that is reducing its

<sup>53</sup> Master Plumbers Association (ACT), *Submission 3*; H2 Networks, *Submission 7*.

<sup>54</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 7.

<sup>55</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 8.

heating and cooling output and efficiency? Where are the ongoing advertising campaigns explaining building and appliance star rating schemes?<sup>56</sup>

3.29. During the public hearing the Committee asked the Minister what was being done to ensure there is broad community education and engagement on greenhouse gas reduction and natural gas transition issues.

3.30. The Minister commented that right now, there is ‘a full spectrum of where the public is at’:<sup>57</sup>

We have got those who are already getting off gas themselves as a matter of personal choice, whether that is for environmental or economic or both reasons. So some people have already begun this transition. Others, probably at the other end of the spectrum, have not thought about it at all. Hearing about some of this in the media—and we heard it this morning on the ABC when this was being talked about—some people are saying, “I have literally never heard of this issue.” So we have that full spectrum.<sup>58</sup>

3.31. The Minister continued to give evidence that due to this full spectrum of views in the public, the ACT Government will ‘need to talk to the community about why this transition has to be made and also how to do it, and also put in place financial support for those who are less able to make the changes themselves.’<sup>59</sup>

3.32. The Minister also added that ‘with the gas transition, we are at an earlier point’ for the community to embrace the environmental and economic benefits:<sup>60</sup>

We are probably where solar was 10 years ago, where people were starting to think about it and the early adopters were going there but the bulk of the community were not. I think that just reflects the state of community understanding.<sup>61</sup>

3.33. The Committee is of the view that driving change and public perceptions requires considerable work, and therefore, the ACT Government must be committed to spearhead this big change in policy through more visible action. This includes the provision of information to the whole community (especially culturally and linguistically diverse communities) and ongoing advertising campaigns for greenhouse gas reduction and natural gas transition.

3.34. The Committee is also of the view that more mobile and face-to-face demonstrations in the community showing what the incoming changes in policy would look like, such as the transition from gas cooktops to electric cooktops, would benefit the community’s awareness and understanding of greenhouse gas reduction and natural gas transition.

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<sup>56</sup> Alan Pears AM, *Submission 2*, p 7.

<sup>57</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 3.

<sup>58</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 3.

<sup>59</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 3.

<sup>60</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 7.

<sup>61</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 7.

#### Recommendation 4

The Committee recommends that the ACT Government increase awareness and educate the ACT community on greenhouse gas reduction and natural gas transition.

### Excessive powers to the Executive

- 3.35. A number of concerns were raised in the public hearing by the Committee, in relation to the enablement of regulation-making powers as provided in the Bill.
- 3.36. During the public hearing the Committee asked the Minister for the reason(s) why areas or premises that a gas distributor must not provide a gas connection for were not specified in the Bill.
- 3.37. This was one of two major issues raised by the Scrutiny Committee (see **Chapter 2**), as the Scrutiny Committee was of the view that the criteria governing the selection for which areas and stated premises in which new gas connections will be prohibited should be included within the Bill itself, rather than in the regulations.
- 3.38. The Minister responded that ‘this Bill creates the overarching power’:<sup>62</sup>

The clear intent here is that this bill creates the overarching power. The intent is that the specified areas or other details will be put in a regulation that would come subsequent to the passage of the bill and subsequent to a consultation process, which would involve a regulatory impact statement and detailed discussions with the development sector, members of the community and other expert groups.<sup>63</sup>

- 3.39. When questioned by the Committee on whether the prohibition of new gas connections would impact older, established suburbs and areas, the Minister said that the intent of the Bill is for fossil fuel gas to no longer flow in the ACT over time, but the specifics are ‘still to be determined under regulation’:<sup>64</sup>

The government is seeking to do this in an orderly way, to give the community as much time as possible to transition. Your point that, once this legislation passes and the regulation is put in place, new households will not build with gas is true. But it is really important to draw that distinction. If you are sitting an older suburb, in the middle of Weston Creek, for example, which has an existing gas network, this legislation will not turn that gas off overnight.<sup>65</sup>

- 3.40. The Committee is concerned that the enablement of regulation-making powers as provided in the Bill would lead to a loss of public scrutiny and accountability for policy decisions which would otherwise occur through the Legislative Assembly.

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<sup>62</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 2.

<sup>63</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 2.

<sup>64</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, pp 8-9.

<sup>65</sup> Mr Shane Rattenbury MLA, Minister for Water, Energy and Emissions Reduction, *Proof Committee Hansard*, p 8.

- 3.41. As the Legislative Assembly would not have control over the form of the regulation or when it would take effect, the Committee is of the view that the enablement of regulation-making powers as provided in the Bill permits excessive powers to the Executive.
- 3.42. Therefore, the Committee is of the view that the ACT Government should specify in legislation the criteria for selecting the areas and premises for which gas distributors must not provide new gas connections, and the dates and timeframes for when the transitions are to occur.

### Recommendation 5

The Committee recommends that the Bill be amended to specify in legislation:

- criteria for selecting the areas and premises for which gas distributors must not provide new gas connections; and
- the dates and timeframes for when the transitions are to occur.

- 3.43. In its submission to the inquiry, Evoenergy<sup>66</sup> suggested that, to manage the distribution of electricity and gas to residents and businesses in the ACT and surrounding regions, it would additionally 'propose an adjustment to Part 2A Natural Gas Connections to ensure the regulation is feasible.'<sup>67</sup>
- 3.44. The Committee is of the view that ongoing consultation and partnerships between the ACT Government and peak bodies are critical in establishing feasible targets and goals in managing the electricity and gas network in the ACT.
- 3.45. By including the ACT electricity and gas distributor in legislation, the Committee is also of the view that this will provide government accountability for decision-making and exertion of power by the Executive.

### Recommendation 6

The Committee recommends that the Bill be amended so that the words 'and the ACT electricity and gas distributor' are included in Part 2A, to amend the wording for Part 2A to 'Before a regulation is made for this section, the Executive must seek, and have regard to, the advice of the Chief Planning Executive and the ACT electricity and gas distributor about the proposed regulation.'

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<sup>66</sup> Note: Evoenergy own and operate the electricity network in the ACT, and gas network in the ACT along with surrounding regions such as Queanbeyan, Jerrabomberra, Bungendore, and Nowra.

<sup>67</sup> Evoenergy, *Submission 10*, p 2.

## 4. Conclusion

- 4.1. The Committee is of the view that due to major policy changes proposed in the Bill, it was important to conduct this inquiry to review this piece of legislation which is due to be followed by subsequent pieces of legislation.
- 4.2. The Committee looks forward to further information requested by the Scrutiny Committee of the Minister for Water, Energy and Emissions Reduction, on the justification for the proposed prohibition of new gas connections and modification of the listed National laws requiring the enablement of regulation-making powers as provided in the Bill.
- 4.3. The Committee is of the view that accountability and scrutiny arrangements can be improved. The Committee supports the Bill on the basis that it be subject to amendment.

### Recommendation 7

The Committee recommends that, subject to the amendments proposed in this report, the Assembly pass the Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022.

- 4.4. The Committee wishes to extend its appreciation to all those who have participated in this inquiry into the Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022.

Dr Marisa Paterson, MLA

Chair

29 September 2022



## Appendix A: Submissions

No.	Submission by	Received	Published
1	Name withheld	22/08/22	07/09/22
2	Alan Pears AM	24/08/22	07/09/22
3	Master Plumbers Association (ACT)	29/08/22	07/09/22
4	Name withheld	29/08/22	07/09/22
5	Weston Creek Community Council	30/08/22	07/09/22
6	ACT Government	30/08/22	07/09/22
7	H2 Networks	30/08/22	07/09/22
8	ACT Council of Social Service	30/08/22	07/09/22
9	Conservation Council ACT Region	30/08/22	07/09/22
10	Evoenergy	30/08/22	07/09/22

## Appendix B: Witnesses

Tuesday, 13 September 2022

### Minister for Water, Energy and Emissions Reductions

- **Mr Shane Rattenbury MLA**, Minister for Water, Energy and Emissions Reduction
- **Ms Fiona Wright**, Executive Group Manager, Climate Change and Energy, EPSDD
- **Mr Simon Grice**, Senior Director, Gas Transition, Climate Change and Energy Policy, EPSDD

### Suburban Land Agency

- **Mr Joey Lee**, A/g Deputy Chief Executive Officer
- **Mr Rob Thorman**, Program Manager, Sustainability and Release Coordination
- **Mr Eshan Ahuja**, Senior Project Manager, Sustainability and Release Coordination

## Appendix C: Question Taken on Notice

### Question Taken on Notice

No.	Date	Asked of	Subject	Response received
1	13/09/2022	Minister Rattenbury	Safety concerns and associated analysis related to gas bottles vs mains connections in a housing development	23/09/2022

## **Dissenting Report by Mr Ed Cocks MLA**

I dissent from recommendations 3 and 7.

I support all other recommendations as they will go some way toward mitigating the negative impacts that would arise from the Bill if passed.

### **Background**

Strong evidence has been presented and considered across many studies and reviews, demonstrating that natural gas has an emissions impact. In the context of the ACT's Net Zero ambitions, it is difficult to conceive of a pathway to meeting the Government's emissions reduction targets that does not address natural gas use.

However, this does not automatically justify the Government's gas ban bill. Indeed, most submissions did not express support for a gas ban; and eighty per cent indicated there were concerns about implementation issues with the Bill.

### **Impact on individuals and consumers**

The Bill and subsequent regulations will have a clear impact on individuals right to choose the technologies that best suit their needs. The Minister, during hearings, confirmed the policy intent is a gas ban to remove consumer choice, restricting consumers to electrical energy only.

The Government does not appear to have considered any alternative to a complete ban, and when questioned about this issue and its impact on consumer choice, the Minister indicated no alternative policy had been considered, stating:

*"There is no option that we considered where we just keep using gas."*

It is not unreasonable to assume reducing choice could be expected to have significant impacts on the economics of both energy supply and consumer appliances, increasing demand for the only remaining choice. It may also prevent ACT consumers from benefiting from emerging and future technologies.

### **Government analysis, modelling, and forecasting**

The overall impression of many submissions is that the Government has not undertaken sufficient analysis of alternatives to banning gas connections, or the potential unintended consequences; and has not adequately considered the economic impact on individuals and members of disadvantaged groups.

The Master Plumbers Association ACT, for example, raised concerns about modelling of the Government's policy position, stating:

*MPA notes the lack of comprehensive modelling and strategic planning, in the ACT Government's push towards 100% electrification, to address transition challenges across all disadvantaged groups, including existing and future apartment owners and residents. Apartment dwellers are the fastest growing residential cohort across the ACT, and MPA calls on the ACT government to release detailed modelling and comprehensive planning documentation to support a fair and just transition for all disadvantaged groups, for the next 5, 10, 15 and 20 years to 2045.*

In this respect, the information and modelling provided to the Committee was also extremely limited, and did not address the full range of social, economic, and technical issues. While the Minister committed to ensuring the Committee had access to the full range of modelling undertaken

in developing its policy position, the Government did not provide any additional modelling to the Committee. It must therefore be assumed no modelling was undertaken except for that provided as part of the Government's submission.

It is concerning, also, that the Government does not appear to have modelled any alternative other than the status quo and its own stated policy position, and does not appear to have considered the potential for unintended consequences (such as the potential increase in wood fire use noted by the Weston Creek Community Council). This implies the Government has no evidence regarding how a ban would compare with other options, and raises the concern that modelling may be biased to justify the Government's position rather than evaluate it.

Similarly concerning, on a technical level, is that the Government appears to have extrapolated the current comparative costs of emerging technologies and assumed they will continue to apply into the future. This modelling approach fails to take account of future technological or efficiency improvements, and biases forecasts away from emerging technologies.

### **Uncertainty due to over-reliance on regulations**

The Bill also introduces additional uncertainty for consumers, industry and other stakeholders due to its over-reliance on providing very broad regulatory powers to a single member of the Executive. The main report has addressed this issue to some extent.

However, the Assembly should be aware when debating this Bill, the Minister has provided no draft regulations, and the Minister has indicated the process of developing and consulting on regulations will not occur until after the Bill has been passed:

The Minister has further suggested that the risks and potential problems inherent in a gas ban would be dealt with through the process of developing the regulations. The Minister was unable to advise, for example, whether the ban would apply to a knock-down rebuild, whether the ban would apply to new developments in existing suburbs. The Minister stated:

*"That is the work to be done through the regulation process."*

The driver for rushing the Bill through the Assembly may be linked to the parliamentary agreement between Labor and the Greens. However, it is arguable that this power-sharing agreement should not trump good governance. After consideration of the evidence presented to the Committee, I am convinced it would not be appropriate for the Assembly to pass this Bill without fully understanding all circumstances in which the Minister intends to ban gas connections, and when the ban would apply.

### **Recommendation**

I recommend:

The Assembly not pass the Climate Change and Greenhouse Gas Reduction (Natural Gas Transition) Amendment Bill 2022, and the Government instead consult with the full range of stakeholders to identify alternative approaches to reducing natural gas usage without imposing permanent barriers to the adoption of future technological advances in areas such as green gas or hydrogen.