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CC: Minister Eamon Ryan for the Environment, Climate and Communications and Minister for Transport

Dear Deputy Leddin and members of the Committee,

RE: Council Advice regarding the Climate Action and Low Carbon Development (Amendment) Bill 2020

The Climate Change Advisory Council welcomes the opportunity to provide advice and recommendations with respect to the drafting of the Climate Action and Low Carbon Development (Amendment) Bill 2020. Strengthening the legislative framework will be an important instrument to help achieve Ireland's climate goals. The Council recommends that, in addition to important new provisions regarding carbon budgeting, in all cases, the Amendment Bill should seek to maintain or strengthen existing provisions.

In this context, the Council would like to highlight five points of concern with regard to the Amendment Bill:

1. Evolution of EU climate policy
2. The 2050 objective
3. The exact role of the Council regarding carbon budgets
4. The definition of biogenic methane and how to treat it
5. Climate Justice and Just Transition
6. Adaptation
7. Council membership, mandate and operation
8. Resources for Council

These points are elaborated further below and expanded upon in an appendix document attached which also contains detailed commentary and advice on other aspects of the Bill.

1. Evolution of EU Climate Policy

The EU legislative context continues to evolve. A 2050 climate neutrality goal for the EU is expected to be enshrined in a new EU Climate Law, while ambition for 2030 is expected to increase with new policies and instruments developed to achieve these goals.

Council recommendation: The Council recommends that legislation in Ireland should maintain some flexibility to address these changes where relevant.

2. The 2050 Objective

The Council welcomes the proposal to adopt the objective of a ‘climate neutral economy’ by 2050. This is consistent with previous advice of the Council in 2019 and aligns with EU 2050 ambition. However, the Council is concerned that more precision is required on the objective. For example, the definition of a ‘climate neutral economy’ does not make clear whether aviation and maritime emissions are included and whether removals taking place outside Irish territory may be considered as helping meet the objective. The Council also notes the language framing the objective in the Amendment Bill may be weaker than the existing Act, requiring the pursuit rather than achievement of the objective and recommends the existing formulation for achievement should be maintained.

Council recommendation: The Council recommends that the Bill should require the achievement of the 2050 objective. The emissions and removals to be accounted towards the 2050 objective should be clarified.

3. Carbon Budgets

The Council welcomes the proposal for legislated carbon budgets. Carbon budgets can be a useful tool to manage the low carbon transition. They can provide increased policy certainty over a longer timeframe and offer robust interim targets.

The level of detail and nature of the carbon budgets is unclear. The Bill outlines that the Minister will set sectoral decarbonisation ranges. It may be that the Bill envisages that the Council only prepares a very high-level carbon budget for the whole economy while the Minister does the detailed work of allocating the budget by sector in each five-year budget period. However, to determine the appropriate time-path for decarbonisation, to be

embodied in the carbon budgets, it would be necessary to consider the effects of such a time path on different sectors, the cost of compliance and the benefits arising from earlier action. Thus, the research necessary to undertake even a high-level budget allocation would also be an essential underpinning for the decisions on allocating the carbon budget across sectors. This means that it would not be easy to separate decisions on the high-level carbon budgets from decisions on how the budget would be allocated across sectors.

The criteria set out in the Amendment Bill for the Council to have regard to in developing carbon budgets are unbalanced and potentially too restrictive. For example, the Council considers it extremely important that cost-effectiveness is a fundamental criterion in developing and setting carbon budgets. A carbon budget recommendation from the Council that does not reflect a consideration of costs or feasibility is unlikely to be accepted by the Oireachtas. The Bill does not clarify which gases are to be included in setting carbon budgets, nor does it clarify who can propose or determine which gases should be included in carbon budgets.

Council recommendation: If the Council is mandated to develop economy-wide carbon budgets, the Council should be mandated to take into account cost and feasibility in different sectors in developing those budgets.

4. Biogenic Methane

In 2019 the Council recommended to Government that climate legislation should set a separate but ambitious reduction target for biogenic methane based on the reports from the Intergovernmental Panel on Climate Change. This is not reflected in the Amendment Bill. The Council believes the New Zealand Climate Act provides a useful template on how to legislate on biogenic methane.¹

Council recommendation: The Council reiterates its advice to clearly legislate for an approach to carbon budgeting which includes a separate ambitious 2050 target for reduction in emissions of biogenic methane.

5. Climate Justice and Just Transition

¹ <https://www.mfe.govt.nz/climate-change/zero-carbon-amendment-act>

The Bill includes “climate justice” as a criterion that the Council must have regard to in developing carbon budgets and that the Minister must have regard to in setting carbon budgets and developing climate policy. This term is not defined in the Bill. It is unclear how this term relates to the concept of Just Transition which is not mentioned in the Bill. The Council is clear that Just Transition must be taken into account in developing climate policy and in setting carbon budgets.

Council recommendation: The Council recommends that Just Transition must be included in the list of criteria that the Minister must have regard to in setting carbon budgets and climate policy. A clear definition of climate justice should be provided.

6. Adaptation

The Council welcomes the proposal to establish an Adaptation Committee in the legislation to assist and advise the Council in relation to climate adaptation. The Council also notes the provision for joint sectoral adaptation plans. This is in line with previous Council advice on the need to better address adaptation of cross departmental sectors.

However, the Bill does not strengthen existing provisions regarding resilience. Climate resilience remains part of the proposed national 2050 climate objective, but adaptation and the National Adaptation Framework must link to the long-term strategies and particularly the annual Climate Action Plans. Currently the long-term strategy and annual climate plans under the Bill only relate to the mitigation element of the 2050 objective.

Council recommendation: It is essential that adaptation is an integral part of future climate governance. This is not currently evident in the Bill. The Council recommends that adaptation should be adequately reflected in the Bill.

7. Council membership, mandate and operation

The Council welcomes the enhanced mandate for the Council contained within the Bill. A positive statement of the general functions of the Council would be useful in guiding future work. However, there is a need to ensure that the Council is enabled to effectively offer robust and relevant advice. The Council supports the intention to increase the diversity of membership in future Councils. The Council recognises the need for appropriate expertise but recommends less specific wording to avoid exclusion of possible important areas of expertise.

Council recommendation: The Council recognises the need for appropriate expertise on the Council but recommends less specific wording in the legislation to avoid exclusion of possible important areas of expertise.

Some provisions in the Bill may lead to an increase in workload without adding value to the advice of the Council or to environmental outcomes. For example, as currently drafted, all advice (excepting Carbon Budgets) provided by the Council must have regard to 25 criteria. As the criteria would be legislatively mandated, this would have to be documented by the Council. Many of the criteria are vague, requiring definition and will not always be relevant to the issue at hand. Issues which are to be considered during Council deliberations should be based on a set of principles rather than a mandatory list of criteria. This would allow the Council the flexibility required to base their advice on their independent and expert opinion of the range of issues relevant to a particular issue, including topics that may not be included on the current mandated list.

Council recommendation: The Council recommends that the list of criteria is too long. Council deliberations should be based on a set of principles rather than a long mandatory list of criteria.

It is important that the timelines for submissions of the Council to government are practical. At the Joint Oireachtas Committee, it was noted that it is critical that analysis and advice from Council is both relevant and timely. However, the relevance of Council analysis relies on the most recently available published data. For example, key data on emissions inventory and projections are currently published at the beginning of the second quarter. Therefore, any analysis published before this will be based on out of date information or provisional data. Time must be given to the Council for a full consideration of official data. The Council notes the current deadline for completion of Annual Review proposed in the Bill is reasonable.

Council recommendation: It is important that the timelines for consultation and submission of the Council to government are practical.

8. Resources for Council

Carbon budgets need to be grounded in solid, thorough, research and analysis. Sufficient resources need to be given to the task, along with sufficient time, particularly for the first set of three carbon budgets. The Council Secretariat remains understaffed and a Memorandum of Understanding has yet to be agreed between the Council and government departments and public bodies, including academia, providing the Council with full access to available

modelling and research resources necessary to undertake the Council's work. In the Council's view, it is essential that Government and the Council share modelling and data resources in the development and setting of carbon budgets.

Council recommendation: Carbon budgets need to be grounded in solid, thorough, research and analysis. Additional Secretariat staff and resources need to be given to the task, along with sufficient time, particularly for the first set of three carbon budgets.

The Council appreciates this opportunity to provide input on what is a very important and necessary legislative development.

Should you wish to discuss this further, please contact the Secretariat on 087 172 9303 or info@climatecouncil.ie.

Kind regards,

Prof. John FitzGerald

Chair

Climate Change Advisory Council & Adaptation Committee