



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

The Director-General: Department of Forestry, Fisheries and the Environment
Attention: Mr Mkhuthazi Steleki

Per email MSteleki@dfre.gov.za and Mndiitwani@dfre.gov.za

BA/NDC 2025
29 August 2025

Dear Sirs

Written submission on Draft Second Nationally Determined Contribution for the Republic of South Africa

1. We address you on behalf of [groundWork](http://www.groundwork.org.za/)¹ and [Earthlife Africa](http://earthlife.org.za/),² and represent the [Life After Coal/Impilo Ngaphandle Kwamalahle Campaign](https://lifeaftercoal.org.za/) ("the Campaign"),³ a joint campaign by Earthlife Africa, groundWork, and the Centre for Environmental Rights⁴ in making these comments. We are instructed that groundWork will be submitting an additional set of comments ("the groundWork submission") focusing on particular aspects that fall within its area of expertise. In the unintended event where any contentions in the groundWork submission contradict anything in this submission, the groundWork submission shall take precedence for the purposes of assessing groundWork's total submissions.
2. We submit this set of comments in response to the publication of the *Draft Second Nationally Determined Contributions for the Republic of South Africa* ("draft NDC") by the Department of Forestry, Fisheries and the Environment (DFPE) as Government Notice 6460 in Government Gazette No 53092 on 30 July 2025.

HIGH LEVEL SUMMARY

3. Without derogating from the range or depth of the submissions made herein, we wish to highlight the most salient points of this set of comments here:
 - 3.1. We object in the strongest possible terms to the fact that the technical report underlying the draft NDC was only made available to the public on the 29th of August, a mere one day before these comments were due.
 - 3.2. We contend that the mitigation targets in the draft NDC are unsafe, unambitious, inadequate and fail to demonstrate clear progression.
 - 3.3. This lack of ambition exposes South Africa to arrange a physical and transition climate risks and exposes the state to litigation risk;

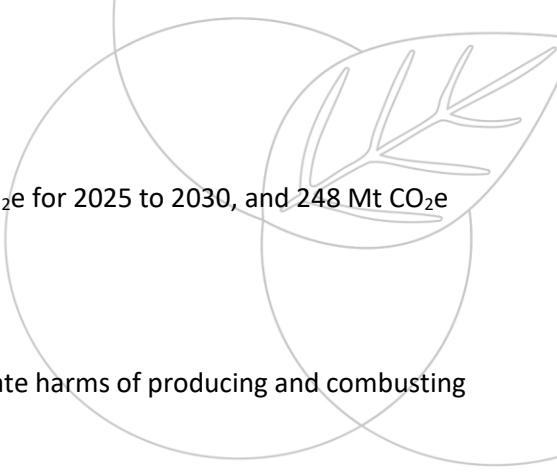
¹ See <http://www.groundwork.org.za/>.

² See <http://earthlife.org.za/>.

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

⁴ See <https://cer.org.za/>.

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- 3.4. We submit that the targets for this second NDC should be 350 Mt CO₂e for 2025 to 2030, and 248 Mt CO₂e for 2031 to 2035.
 - 3.5. We support the inclusion of a net zero by 2050 target.
 - 3.6. We submit that the NDC must be much stronger on naming the climate harms of producing and combusting fossil fuels, and the need to phase them out as soon as possible.
 - 3.7. We submit that the draft NDC recommendation from the Presidential Climate Commission proposes numerous measures and mechanisms that support climate justice and the implementation of a just transition, and that these be incorporated in the second NDC.

CONTEXT AND RISK

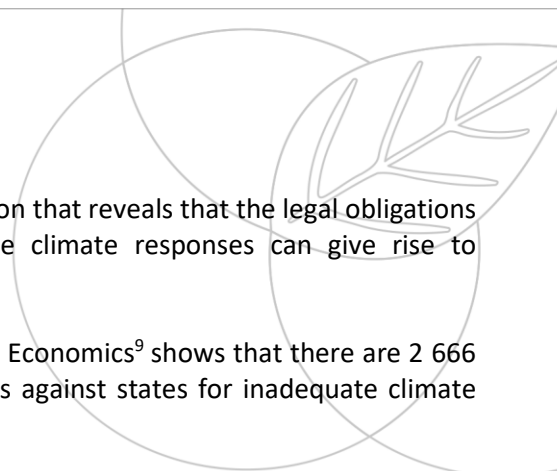
- 4. 2024 saw the average global temperature reach 1,55°C above pre-industrial levels⁵. This was the first time that the Paris Agreement's so-called safe limit of 1.5° was breached and it is officially the warmest year on record. This does not mean that the agreement's temperature goal, as defined, has been breached yet, but it is dangerously close.
- 5. The science is clear that this is the decade of action, with the United Nations intergovernmental panel on climate change consistently reinforcing that we need to see greenhouse gas emission reductions of 43% by 2030 and 60% by 2035 (over 2019 levels).
- 6. A 2024 [synthesis report](#)⁶ on NDCs adopted by the United Nations Framework Convention on Climate Change (UNFCCC) shows that if all current NDCs were implemented, GHG's would reduce by a mere 5.9% by 2030 and put us on a course of 2.1°C to 2.9°C of warming.
- 7. In terms of real world actions based on existing policies, we are on a pathway to 3.4°C of global warming, according to [Climate Action Tracker](#)⁷
- 8. A [United Nations Environment Programme \(UNEP\) Production Gap report](#)⁸ from 2023 highlights that, collectively, governments are planning for 110% more fossil fuel production than is allowed by the 1.5°C target.
- 9. The draft NDC itself expresses concern at the risk of overshooting 1.5° and references the loss and damage that can and does result.
- 10. The draft NDC also acknowledges the frequency and severity of extreme weather events and the increase of climate related impacts in South Africa.
- 11. The emergent threat of carbon border adjustments, such as the EU's carbon border adjustment mechanism (CBAM) are well known, and herald the new age of discouraging imports with a high carbon footprint. This will impact South Africa's economy as most goods exported at this point in time will have a high carbon footprint as a result of our fossil fuel intensive energy systems.

⁵ <https://wmo.int/news/media-centre/wmo-confirms-2024-warmest-year-record-about-155degc-above-pre-industrial-level>

⁶ https://unfccc.int/sites/default/files/resource/cma2024_10_adv.pdf

⁷ <https://climateactiontracker.org/publications/the-climate-crisis-worsens-the-warming-outlook-stagnates/>

⁸ <https://www.unep.org/resources/production-gap-report-2023>

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12. The International Court of Justice (ICJ) recently released an advisory opinion that reveals that the legal obligations of states in respect of climate change are stringent, and inadequate climate responses can give rise to compensation claims.
 13. Climate litigation is on the increase and a report by the London School of Economics⁹ shows that there are 2 666 active cases, 233 of which were filed in 2023 alone. These include cases against states for inadequate climate ambition and loss and damage claims.
 14. In March 2025, Tokyo Marine, the insurer of Toyota Motor Corporation's facilities in South Durban, filed a R6.5 billion claim against Transnet, KZN Province and Ethekeeni in connection with damage from the 2022 flooding in KZN. Whilst this full amount might not all be attributable to climate change, a significant amount of it could be. A study released in July 2025 showed that climate change increased the intensity of the rainfall event by between 40% and 107%.

LEGAL BACKGROUND

15. As a formal document, which sets out South Africa's commitments under the Paris Agreement – an instrument ratified by South Africa's government – the NDC must comply, and be aligned, with certain provisions of South Africa's laws, as well as international law.
16. We set out briefly below the relevant legal provisions and policies, with which the NDC must be consistent and aligned.

The Constitution

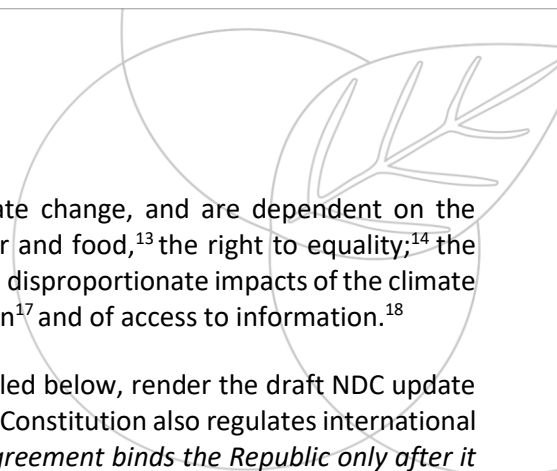
17. South Africa is a sovereign democratic state founded on human dignity, the achievement of equality and the advancement of human rights and freedoms. The supreme law of the Republic is the Constitution. All law or conduct inconsistent with it is invalid.
18. Section 24 of the Constitution guarantees an unqualified right to an environment that is not harmful to health or well-being;¹⁰ and it confers the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that – (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.¹¹
19. The State has a duty to uphold and protect the right to an environment not harmful to health or wellbeing. Taking steps to guard against the harmful impacts of climate change on our environment and human health is required by the obligation to realise the Constitutional environmental right, as well as the duty of care contained in section 28 of the National Environmental Management Act, 1998 – which is referred to below.
20. The importance of the protection of the environment cannot be overstated. The Constitutional Court has confirmed that *"its protection is vital to the enjoyment of the other rights contained in the Bill of Rights; indeed, it is vital to life itself. It must therefore be protected for the benefit of the present and future generations."*¹²

⁹ <https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2024-snapshot/>

¹⁰ Section 24(a), the Constitution.

¹¹ Section 27(1), the Constitution.

¹² *Fuel Retailers Association of Southern Africa v Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province and Others* (CCT67/06) [2007] ZACC 13, at para 102.

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21. Other Constitutional rights that are relevant in our response to climate change, and are dependent on the existence of a stable environment, include: the right of access to water and food,¹³ the right to equality;¹⁴ the right to human dignity;¹⁵ and children's rights;¹⁶ given the far-ranging and disproportionate impacts of the climate crisis. Other relevant rights include the rights to just administrative action¹⁷ and of access to information.¹⁸
22. In our comment below, we submit that many of the various issues detailed below, render the draft NDC update in conflict with the Constitution, as the supreme law of the Republic. The Constitution also regulates international agreements - section 231 states, *inter alia*, that, "(2) An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3)". Having obtained this approval, the Paris Agreement referred to below is binding on the Republic.
23. Section 231(4) states that "Any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament."

The National Environmental Management Act (NEMA)

24. The second NDC must be aligned, and comply with, the National Environmental Management Act, 1998 (**NEMA**). NEMA was enacted to give effect to section 24 of the Constitution. This is national legislation binding on all state bodies, to develop, *inter alia*, a framework for integrating good environmental management into all development activities.¹⁹
25. Section 28 of NEMA ("**the duty of care**") places a duty of care on every person who "*causes, has caused or may cause significant pollution or degradation of the environment [to] take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.*" This duty extends to all organs of state and extends to degradation caused by climate change.
26. The section 28 duty of care requires the Department to ensure that our second NDC reflects a reasonable measure to the country's response to the climate crisis – under international obligations and Constitutional imperatives for a healthy environment for present and future generations.
27. Section 2 of NEMA lists principles which are guidelines by reference to which any organ of state must exercise any function when taking any decision which may significantly affect the environment or its protection.²⁰ The second NDC must therefore be aligned with section 2 of NEMA. This includes, for example:
- 26.1 the principle that "*global and international responsibilities relating to the environment must be discharged in the national interest*";²¹

¹³ Section 24(b), the Constitution.

¹⁴ Section 9, the Constitution.

¹⁵ Section 10, the Constitution.

¹⁶ Section 28, the Constitution.

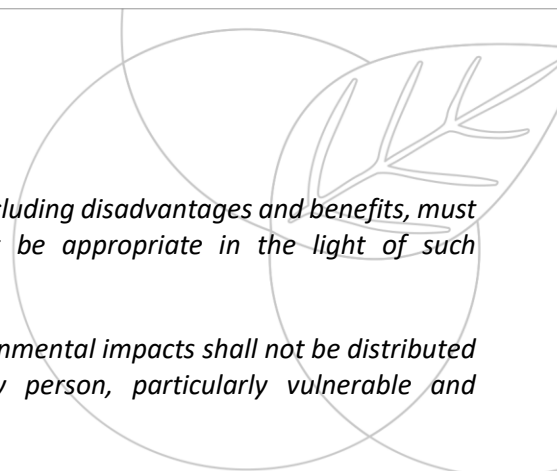
¹⁷ Section 33, the Constitution.

¹⁸ Section 32, the Constitution.

¹⁹ Preamble, NEMA.

²⁰ Section 2(1), NEMA.

²¹ Section 2(1), NEMA.

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- 26.2 *“the social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment”;*²²
- 26.3 *“[e]nvironmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons”;*²³
- 26.4 *“the costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment”;*²⁴
- 26.5 *“The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured”;*²⁵ and
- 26.6 the need for a *“risk averse and cautious approach, which takes into account the limits of current knowledge about the consequences of decisions and actions”* (“the precautionary principle”).²⁶
28. The above principles apply throughout the Republic to the actions of all organs of state that may significantly affect the environment.²⁷

The Climate Change Act 22 of 2024

29. Section 7 of the Act provides that *“Every organ of state that exercises a power or performs a function that is affected by climate change, or is entrusted with powers and duties aimed at the achievement, promotion and protection of a sustainable environment, must review and if necessary revise, amend, coordinate and harmonise their policies, laws, measures, programmes and decisions in order to*
- (a) ensure that the risks of climate change impacts and associated vulnerabilities are taken into consideration; and*
- (b) give effect to the principles and objects set out in this Act”*
30. Section 2 lays out the Objects of the Act, and Section 3 lays out the Principles. A number of these are relevant, and in particular:
- 25.1 Section 2 (c): *“make a fair contribution to the global effort to stabilise greenhouse gas concentrations in the atmosphere at a level that avoids dangerous anthropogenic interference with the climate system”;*
- 25.2 Section 2 (e): *“give effect to the Republic’s international commitments and obligations in relation to climate change”;*
- 25.3 Section 2 (f): *“protect and preserve the planet for the benefit of present and future generations of humankind”.*

²² Section 2(4)(i), NEMA.

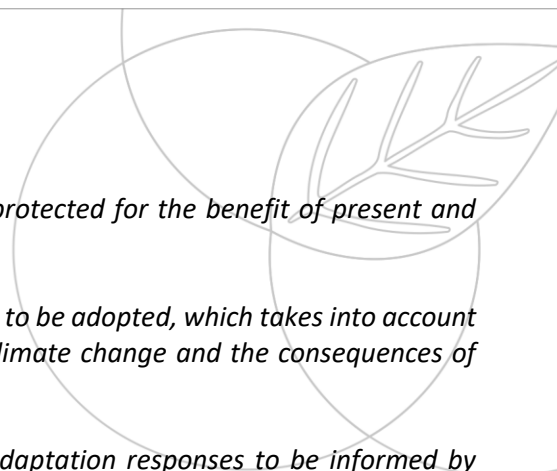
²³ S2(4)(c), NEMA.

²⁴ 2(4)(p), NEMA.

²⁵ Section 2(4)(f), NEMA.

²⁶ Section 2(4)(a)(vii), NEMA.

²⁷ Section 2(1), NEMA.

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- 25.4 Section 3(b): *“the principle that the climate system must be protected for the benefit of present and future generations of humankind;”*
- 25.5 Section 3 (g): *“the need for a risk-averse and cautious approach to be adopted, which takes into account the limits of current knowledge about causes and effects of climate change and the consequences of decisions and actions in relation thereto;”*
- 25.6 Section 3(h): *“the need for climate change mitigation and adaptation responses to be informed by evolving climate change scientific knowledge and decisions which must be based on the best available science, evidence and information”; and*
- 25.7 Section 3(l): *“a recognition that a robust and sustainable economy and a healthy society depends on the services that well-functioning ecosystems provide, and that enhancing the sustainability of the economic, social and ecological services is an integral component of an effective and efficient climate change response.”*

31. We contend that the formulation of the NDC, being at least a “measure” and a “decision”, falls within the scope of Section 7 of the Act, and must be observed by the Minister and the Department of Forestry, Fisheries and the Environment, as well as the Cabinet.
32. The above quoted principles and objects have identified those which are potentially being contravened on the basis of the arguments contained in this submission

SA’s International Law Obligations Relating to Climate Change

33. South Africa is a party to both the United Nations Framework Convention on Climate Change (**UNFCCC**) and the Paris Agreement on Climate Change. South Africa ratified the Paris Agreement in 2016. In accordance with section 231 of the Constitution as referenced above, this agreement binds the Republic
34. The UNFCCC — now nearly universally ratified — called for efforts to mitigate the adverse effects of climate change on human health and welfare.²⁸ The Paris Agreement went a step further, calling on states to *“respect, promote and consider their respective obligations on human rights”* including the rights of the child and intergenerational equity, when *“taking action to address climate change.”*²⁹
35. In the Paris Agreement, State Parties pledged to keep global warming well below 2°C above pre-industrial levels and to pursue efforts to limit it to 1.5°C.³⁰ To achieve this, they set voluntary emission reduction targets called Nationally Determined Contributions (**NDCs**)³¹ and pledged to reduce emissions at the “highest possible ambition.”³²
36. NDCs under the Paris Agreement set targets that are expressed in the estimated total annual emission of carbon dioxide equivalents (“**CO₂e**”) (i.e., all GHGs), measured in megatons (“**Mt**”) meaning a million tons.
37. Successive NDCs must *“represent a progression beyond the Party’s then current nationally determined contribution”*.³³ The Paris Agreement will — by its own provisions - be implemented to reflect the principle of

²⁸ UN Framework on Climate Change, 1771 UNTS 107; UN Doc. A/AC237/18 (Part II)/ Add 1 (1992), art. 1(1), art. 3(3) (hereinafter “UNFCCC”) (May 9, 1992).

²⁹ Paris Agreement, *supra* note 19.

³⁰ *Id.* article 2(1).

³¹ *Id.* article 3.

³² *Id.* article 4.

³³ Article 4(3).

common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

38. Under the Paris Agreement, parties must revise and enhance their NDCs every five years in a manner that is consistent with the principles and provisions of the Paris Agreement and the UNFCCC.
39. In our submission below, we argue, *inter alia*, that the draft NDC does not represent South Africa's highest possible level of ambition, based on science and equity for the reasons provided below. In other words, the draft NDC update in its current form does not meet the requirements of the Paris Agreement.

The international Court of Justice (ICJ) Advisory Opinion (AO)

40. In July 2025 the International Court of Justice released an advisory opinion on the obligations of states in relation to climate change³⁴. This advisory opinion marks an important milestone in the global recognition of key justice considerations in the international climate change arena.

41. Key findings include:

- 36.1 The duty to address climate change and mitigate greenhouse gas emissions to prevent global warming exists separately and beyond only the Paris agreement and the UNFCCC. A range of other treaties and conventions³⁵, as well as international customary law also impose these obligations on nations, and failure to do so can give rise to claims of compensation.
- 36.2 The Court finds that while the Paris Agreement provides for limiting the global average temperature increase to well below 2°C above pre-industrial levels as a goal and 1.5°C as an additional effort, **1.5°C has become the scientifically based consensus target, and the parties' agreed primary temperature goal under the Paris Agreement**. The Court adds that this interpretation is consistent with the requirement that mitigation measures be based on the "best available science".³⁶
- 36.3 Although the wording of the Paris Agreement suggests that there is a high degree of discretion in what the ambition levels in any NDC can be, it interprets this to find that the discretion is in fact limited. It says that parties are obliged to exercise due diligence and ensure that their NDCs fulfil their obligations under the Paris Agreement and thus, when taken together, are capable of achieving the temperature goal of limiting global warming to 1.5°C above pre-industrial levels. In other words, an NDC that does not align with 1.5°C is falling short of what is required.³⁷

³⁴ <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

³⁵ Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the United Nations Convention on the Law of the Sea, the Vienna Convention for the Protection of the Ozone Layer, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Convention on Biological Diversity and the United Nations Convention to Combat Desertification.

³⁶ ICJ AO para 24

³⁷ ICJ AO paras 237 to 249

OBJECTIONS RELATING TO PROCESS

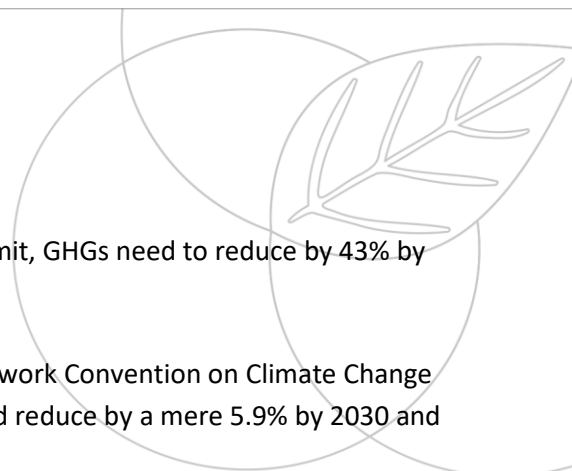
- 37 The period of time made available for the NDC formulation process, and related public participation, has been unsatisfactorily compressed. The draft NDC was made available to the public on 30 July with only 30 days being made available for public analysis and input. We submit that a document of this importance and complexity warrants a longer period of public participation.
- 38 Far more egregious than this however, is the fact that the underlying technical report³⁸ by ESRG (“the ESRG Report”) that supports the draft NDC was only made available at around the middle of Thursday 28 August 2025, the day prior to the deadline for submissions. This is absolutely unacceptable and brings into question the DFFE’s commitment to conducting a transparent process and observing sound democratic and constitutional principles. Addressing climate change requires an all-of-society approach, and the manner in which the DFFE conducted itself in this regard brings into question its commitment to facilitating such an approach.
- 39 As a result of this extremely late release of the technical report, we along with other stakeholders had inadequate time to analyse such reports thoroughly, which has compromised our ability to make the best possible input.

SUBSTANTIVE COMMENTS

Mitigation

- 40 The Paris Agreement stipulates that:
- 40.1 *“Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.”*
- 40.2 *“Each Party’s successive nationally determined contribution will represent a progression beyond the Party’s then current nationally determined contribution and reflect its highest possible ambition”*
- 40.3 *“The country’s NDC must reflect “its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”*
- 41 For the reasons stated below we contend that the target ranges stipulated in the draft NDC, being 350 Mt CO₂e to 420 Mt CO₂e (2026 to 2033) and 320 Mt CO₂e to 380 Mt CO₂e (2031 to 2035), do not reflect the highest possible ambition.
- 42 We further contend that the range in the draft NDC do not effectively represent a progression. The 2050 target remains unchanged from the 2021 update, and the 2035 target is a mere 10% reduction over the 2030 target.
- 43 The scientific community, including the United Nations Intergovernmental Panel on Climate Change (IPCC), broadly agrees that limiting warming to 1.5°C over pre industrial levels is important to limit climate impacts as much as possible. Every fraction of a degree over this limit matters and will have consequences.
- 44 Last year 2024 showed a global average temperature increase of 1.55°C, and was the hottest year on record. This does not mean that the target from the Paris Agreement has been officially breached, as that target refers to average temperature taken over a number of years. It does however mean that the 1.5° limits is dangerously close to being breached.

³⁸<https://open.uct.ac.za/bitstreams/242e82a5-b2d1-4f01-9d01-b5a5312abd8d/download>

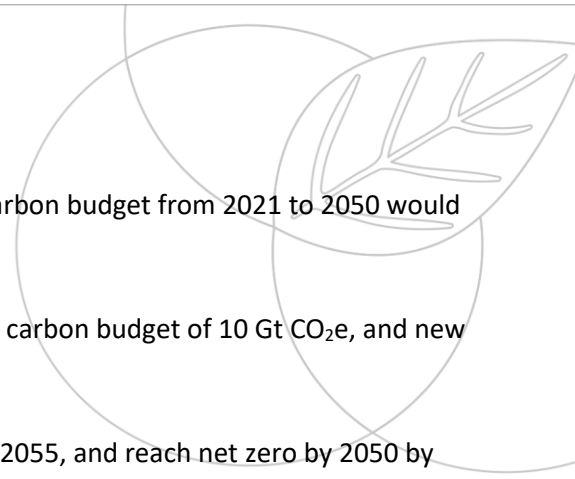
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- 45 The IPCC continues to confirm that in order to remain within the 1.5°C limit, GHGs need to reduce by 43% by 2030 and 60% by 2035 over 2019 levels.
- 46 A 2024 [synthesis report](#)³⁹ on NDCs adopted by the United Nations Framework Convention on Climate Change (UNFCCC) shows that if all current NDCs were implemented, GHG's would reduce by a mere 5.9% by 2030 and put us on a course of 2.1°C to 2.9°C of warming.
- 47 In terms of real world actions based on existing policies, we are on a pathway to 3.4°C of global warming, according to [Climate Action Tracker](#)⁴⁰
- 48 A [United Nations Environment Programme \(UNEP\) Production Gap report](#)⁴¹ from 2023 highlights that, collectively, governments are planning for 110% more fossil fuel production than is allowed by the 1.5°C target.
- 49 As can be seen, the collective global political will, and the general reluctance to commit to steep and decisive fossil fuel phase-out, is sadly lacking and condemning humanity to catastrophic global warming.
- 50 We support the inclusion of a net zero by 2050 target.
- 51 The draft NDC Makes very little mention of the harmful role played by fossil fuel production and combustion and the critical need to face these out as soon as possible. It is our observation that this reluctance to name the undisputed cause of the climate crisis is pervasive across the climate policy landscape globally. There is no longer time to tiptoe around this fundamental fact and we call on the South African government to display climate leadership by naming this issue and making the necessary commitments in unequivocal terms
- 52 Not only can South Africa afford to be much more ambitious in its emission reduction plans – as will be shown below – it **must** be much more ambitious in setting GHG emission limits aligned with the 1.5°C target as a matter of necessity, and as a legal obligation under the Constitution, Climate Change Act and NEMA section 28 duty of care. South Africa's second NDC must pledge much stronger emission reductions targets in order to meet the Paris Agreement objectives, literally and as interpreted by the ICJ's AO.
- 53 The Presidential Climate Commission (PCC) issued a draft recommendation report⁴² (PCC draft recommendation) on the NDC in June 2025, and *inter alia* recommended mitigation targets of 248 Mt CO₂e to 329 Mt CO₂e for 2031 to 2035.
- 54 As an evidence base for formulating, and motivating for, this target, the PCC analysed a number of studies, models and calculations.
- 55 The Energy Systems Research Group (**ESRG**) at UCT was commissioned to conduct a **Net Zero Pathways** research project by the PCC in 2024 . Findings include:

³⁹ https://unfccc.int/sites/default/files/resource/cma2024_10_adv.pdf

⁴⁰ <https://climateactiontracker.org/publications/the-climate-crisis-worsens-the-warming-outlook-stagnates/>

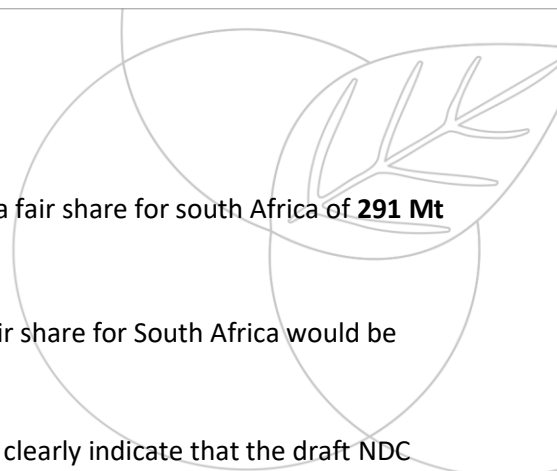
⁴¹ <https://www.unep.org/resources/production-gap-report-2023>

⁴² <https://www.climatecommission.org.za/publications/draft-recommendations-for-south-africas-2030-2035-ndc-update>



- 55.1 Calculations that South Africa's **fair share**⁴³ of the remaining carbon budget from 2021 to 2050 would be in a range of 6 Gt CO₂e to 9 Gt CO₂e.
 - 55.2 There are negligible economic benefits of exceeding a national carbon budget of 10 Gt CO₂e, and new or elevated risks are introduced.
 - 55.3 It is possible to increase GDP per capita by 120% from 2021 to 2055, and reach net zero by 2050 by imposing a long term GHG budget of 8 Gt CO₂e.
 - 55.4 There is minimal difference to the economy between pursuing an 8 Gt CO₂e and a 10 Gt CO₂e budget, and these differences are likely to be eradicated if considering benefits from improved air quality and reduced water resource impacts, as well as investing in energy efficiency and accessing concessional finance.
 - 55.5 A fair share for South Africa 2035 emissions lies in a range of **248 Mt CO₂e and 329 Mt CO₂e**, (the range recommended by the PCC).
- 56 The National Business Initiative (**NBI**) commissioned a study in the early 2020s to explore implications of a net zero transition. Its findings include:
- 56.1 South Africa can technically achieve a national budget of 9 Gt CO₂e. and reach net zero emissions by 2050 if renewable energy is deployed tenfold faster (6-7 gW per annum), coal power is fully retired by the mid 2040s, road and rail mobility is electrified, among other measures.
 - 56.2 5 million net job years could be delivered, offsetting losses in coal and other sectors while safeguarding export competitiveness. It also reports that carbon border measures could place 50% of trade value and 1 million jobs at risk without this decarbonisation.
 - 56.3 A fair share for South Africa **2035 emissions is 310 Mt CO₂e**.
- 57 The **World Bank Country Climate and Development Report** (CCDR) analyses emissions by sector until 2050 within a 9 Gt CO₂e national carbon budget. Its findings include:
- 57.1 58% of emissions reductions in South Africa should occur between 2030 and 2040.
 - 57.2 South Africa's export orientated economic structure is at escalating risk due to carbon border measures. It highlights that 75% of South africa's current exports to the EU come from sectors at moderate to high trade risk including mining, metals, agriculture, chemicals, plastics and rubber.

⁴³ A fair share of greenhouse gas (GHG) emission reduction is a country's appropriate contribution to the global effort, determined by principles of responsibility (historical emissions) and capability (economic development, resources, human development), while also considering needs like sustainable development. There is no single definition; instead, various approaches combine these factors, such as distributing remaining carbon budgets equally or focusing on factors like GDP per capita and historical emissions to establish fair ranges for emissions cuts.

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- 58 The globally regarded Climate Action Tracker⁴⁴ (CAT) has calculated that a fair share for south Africa of **291 Mt CO₂e for 2035**.
- 59 The Climate Equity Reference Calculator⁴⁵ (CERC) has calculated that a fair share for South Africa would be between **306 Mt CO₂e and 320 Mt CO₂e for 2035**
- 60 All Of the above studies show a relatively high degree of consistency and clearly indicate that the draft NDC upper bound of 380 Mt CO₂e is a complete outlier with no evidence base to support this number. While we understand the rational for a range, review the upper bound as being be significant target with legal weight as other instruments such as the sectoral emissions targets and carbon budgets would be based on this.
- 61 South Africa is required to base its NDC, along with other climate response measure, on the best available science. The Paris agreement refers to using the best available science, or best available scientific knowledge to guide climate action under the agreement. South Africa's Climate Change Act states that *“the need for climate change mitigation and adaptation responses to be informed by evolving climate change scientific knowledge and decisions which must be based on the best available science, evidence and information.”*
- 62 It is submitted that the collection of studies relied on by the PCC can arguably be considered to include the best available science in that key reports are current and reference not only the latest climate science, but also socio-economic considerations.
- 63 Notwithstanding the unreasonably short period of time in which to analyse the ESG report, such report contains a number of key findings which are worth referencing. These include:
- 63.1 A fair share range for South Africa is between 261Mt CO₂e and 345 Mt CO₂e;
 - 63.2 Implementing existing policies, including the Integrated Resource Plan 2023, would yield between 300 Mt CO₂e and 320 Mt CO₂e
 - 63.3 Rapid implementation of policies and measures, including the SAREM, could see reductions down to 260 Mt CO₂e.
- 64 We contend it is unacceptable for an NDC to be based on any scenario where existing policies are not implemented (planning to fail).
- 65 We note that all of the studies relied on by both the PCC and DFFE, do not quantify or account for the significant costs of health and other impacts from air pollution (which emanate from the same sources as GHG emitting facilities) as well as water impacts from carbon intensive activities. These are significant and further support the case for stronger ambition.
- 66 We emphasise that principles such as common but differentiated responsibilities, national circumstances, and equity are accounted for in the various phase share calculations and that there is no justifiable basis to exceed a fair share.

⁴⁴ <https://climateactiontracker.org/countries/south-africa/>

⁴⁵ <https://climateequityreference.org/>

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- 67 We submit that the Constitution, NEMA and the Climate Change Act compel South Africa to submit an NDC which will save lives and prevent damage to infrastructure and communities.
- 68 We submit further that the draft NDC targets will subject South Africa trade and litigation risk, carbon border penalties and non-competitiveness.
- 69 We submit further that South Africa Should be taking climate leadership and demonstrating genuine highest possible ambition as this will result in economic upside including green industrialization and exploiting its world-leading renewable energy potential.
- 70 Conversely low ambition will displace renewable energy and the attendant industrialization and keep South Africa locked into the current carbon intensive economy which is clearly not working in terms of reducing poverty inequality and unemployment.
- 71 **Based on the above, we submit that an appropriate mitigation target for 2025 to 2030 is 350 Mt CO₂e, and for 2031 to 2035, is 248 Mt CO₂e.**

Adaptation

- 72 We are deeply concerned about governance and regulatory delays in South Africa's climate adaptation plans and measures, particularly the deferral of key adaption provisions in the Climate Change Act. These include initiating national and sectoral adaptation planning, and municipal and provincial climate response implementation planning.
- 73 There exists a valid concern about lack of capacity to engage with and implement measures, particularly across organs of state. There is a need to understand what is anticipated in terms of practical implementation, and what this would cost. It is also important to foreground technologies needed for adaptation, in conjunction with strategies and priorities.
- 74 The PCC draft recommendation identifies the following consequences: *"Maize yields could fall by up to 75% in extreme warming scenarios; Flooding in coastal cities like Durban already causes billions in damage; Water shortages are disrupting energy supply and food production; Heatwaves are limiting manual labour and driving fatalities, particularly among vulnerable groups."* That compares with the southern African tipping points from Engelbrecht et al (see the groundWork Report, p.50ff)⁴⁶ who identify a "day zero" in Gauteng; collapse of maize & cattle farming; unprecedented heatwaves; and cyclones hitting the east coast. Last year's drought already brought southern Africa to the brink of famine with over 60 million people in need of assistance and/or short of food.
- 75 While the draft recommendation speaks of *"collaboration to collectively address climate risks,"* it makes inadequate mention of climate migration and climate refugees, be these cross-border or within the country. The recent regional drought created pressure that set hundreds of thousands, if not millions of people moving to find less perilous conditions⁴⁷. Some may find their way back home but many are likely to end up in urban informal settlements with houses like ovens in the heatwaves, and possibly located in dangerous conditions, such as on

⁴⁶ <https://groundwork.org.za/wp-content/uploads/2025/04/gW-Report-2024-Systems-Change-for-a-Just-Transition.pdf>

⁴⁷ <https://groundwork.org.za/wp-content/uploads/2025/04/gW-Report-2024-Systems-Change-for-a-Just-Transition.pdf> at Page

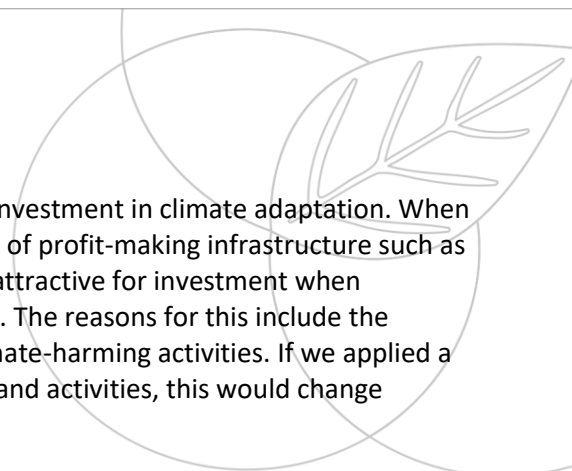
floodplains. Those going to South Africa already face xenophobia. We cannot assume that South Africans will not end up seeking refuge in neighbouring countries as the crisis unfolds.

- 76 We support the inclusion of priority systems for resilience as included in the PCC draft recommendation, and the recognition of *“the socio-economic consequences of system failure, not just on how exposed it is to climate risks.”* We submit that the Draft NDC should include this, with the following refinements:

- 76.1 On Agriculture and Food Security, we do not see any of the necessary warnings of climatically, environmentally and socially dangerous agricultural practices such as chemical intensive monocropping and industrial timber plantations on the watersheds.
- 76.2 The section on Human Health & Social Protection must address the health legacy of the toxic air pollution arising from the burning of fossil fuels, and its connection to climate change.
- 76.3 We contend that this section should include stronger referencing to restoration of the land and ecosystems. Unrehabilitated mines and lands burnt by high input agriculture make adaptation challenging or impossible. Agroecological approaches restore carbon in the soil and work for mitigation and adaptation. This must be accompanied with redistribution of land and water rights.
- 76.4 The need to adapt in the context of protecting biodiversity (along with cross commitment linkages) should be referenced.

Means of Implementation

- 77 We contend that demonstrating strong commitment to ambitious climate response is essential to remaining attractive to, and eligible for, climate finance. This is under pressure as a result of global political developments, and competition for this type of finance is fierce.
- 78 We contend that the draft NDC should be stronger in highlighting the need for finance in the form of grants and highly concessional loans.
- 79 To the extent that it is true that climate governance is being hampered by inadequate financial resources (such as the full implementation of the Climate Change Act), we contend that this should be highlighted in the NDC.
- 80 It is not a foregone conclusion that all of the funding and support pledged by the global north will in fact materialise. It is our view that the NDC should include reference to a commitment to do all that is possible within existing means. Domestic budget is available for service delivery and development, and it is important to state an intention to utilise such budget in a manner that mainstreams climate response. This will demonstrate climate leadership and signal the requisite commitment and initiative.
- 81 We contend that the PCC draft recommendation describes various challenges well, and should be incorporated in the draft NDC. This includes:
- 81.1 The draft NDC must highlight the need to strengthen climate finance absorptive capacity (a problem identified in the PCC draft recommendation), and would be useful politically and practically to highlight the ways in which such absorptive capacity is currently deficient. This will provide a signal in terms of how we need to make adjustments and clear obstacles in order to enhance our readiness for projects and the systems that support them.



81.2 The PCC draft recommendation correctly identifies the under-investment in climate adaptation. When compared with mitigation (which will include the development of profit-making infrastructure such as renewable energy), climate adaptation does not appear to be attractive for investment when measured against a traditional return-on-investment approach. The reasons for this include the ongoing practice of externalising the costs of polluting and climate-harming activities. If we applied a realistic social cost of carbon lens to evaluating developments and activities, this would change dramatically.

82 Funding can also be raised by increasing carbon taxes and levying loss and damage taxes on heavy emitters, and this class of options should be highlighted in the NDC.

Just Transition and climate justice considerations

83 We submit that the PCC draft recommendation contains wording and provisions that promote climate justice and the justice elements contained in the GST transition framework, being restorative distributive and procedural justice. We submit further that these must be incorporated in the NDC.

84 Examples of this include:

84.1 References to limited social inclusion as identified in the biennial transparency report of 2024 (para 4.2);

84.2 Expanding public awareness campaigns on climate health risks (4.3.4)

84.3 Promoting off grid solutions for vulnerable communities (para 4.3.5)

84.4 Transformative and justice based adaptation (para 4.4)

CONCLUSION

85. We urge the DFFE to take these comments into account, and finalise the second NDC to be safe, ambitious, fair and supportive of a sound climate response that can save lives and lead to improved socio-economic wellbeing for all.

86. We are happy to engage further on any aspects of the above.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS



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