Committee on the Rights of the Child (CRC)
Human Rights Treaties Division (HRTD)
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson - 52, rue des Pâquis
CH-1201 Geneva (Switzerland)

August 15, 2019

Re: Submission on the occasion of the Concluding Observations for Australia during the Committee's 82nd Session

1. Submitting organization

This submission is made by **Our Children's Trust**, a U.S.-based nonprofit organization that elevates the voice of young people – those with most to lose from the impacts of climate change – to secure the legal right to a healthy atmosphere and stable climate on behalf of present and future generations. Our Children's Trust leads a global human rights and environmental justice legal campaign to implement court-enforced, science-based climate recovery plans to return atmospheric carbon dioxide (CO_2) concentrations to levels below 350 ppm by 2100 and secure a climate system capable of sustaining human life for future generations.

2. Scientific standard for human rights-compliant climate change mitigation

Global climate change is the most pressing ecological and human rights issue of our time. In order to protect our planet's climate system and vital natural resources on which human survival and welfare depends, and to ensure that fundamental and inalienable human rights of young people and future generations are protected, climate policies of States must be based on the best available climate science. The best available climate science provides a prescription for climate recovery that requires states to collectively decrease atmospheric CO_2 levels to below 350 ppm by 2100 and stabilize the long-term average global temperature below 1 degree Celsius (°C) above pre-industrial levels.[1] This prescription is still economically- and technologically-feasible, although there is an increasingly-narrow window of opportunity for States to achieve the necessary emissions reductions and atmospheric carbon sequestration.[2]

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[1] James Hansen et al., *Assessing "Dangerous Climate Change": Required Reduction of Carbon Emissions to Protect Young People, Future Generations and Nature*, PLOS ONE 8:12, 3763 (2013); Our Children's Trust, *Government Climate and Energy Actions, Plans, and Policies Must Be Based on a Maximum Target of 350 ppm Atmospheric CO2 and 1°C by 2100 to Protect Young People and Future Generations*, *available at* https://www.ourchildrenstrust.org/s/20190411OCTWhy350Final.pdf (last visited June 24, 2019).

[2] *See* James Hansen et al., *Young People's Burden: requirement of negative CO_2 emissions*. 8 Earth Syst. Dynam. 577, 594 (2017); Richie Merzian, *The Australia Institute, Advance Australia's fair share: Assessing the fairness of emissions targets*, at 22

The best available scientific evidence is also increasingly clear that even a 1.5°C increase in long-term average global temperature "is not considered 'safe' for most nations, communities, ecosystems and sectors and poses significant risks to natural and human systems as compared to the current warming of 1°C."[3] These risks and impacts of a world where atmospheric CO_2 concentrations do not return below 350 ppm and temperatures do not stabilize below 1°C will be disproportionately borne by society's vulnerable populations, children being among the most vulnerable.[4] States therefore must take mitigation actions in line with the best available science of climate protection to fulfill their obligations under the Convention on the Rights of the Child (CRC).[5]

3. Recent evidence of State non-compliance

To begin upholding its obligations under the CRC, Australia must first discontinue its current policies that fly in the face of its international obligations and then undertake to reduce its emissions in line with the scientific evidence set out above. However, recent information – released contemporaneously with and after the Committee's pre-sessional working group – demonstrates that Australia's actions continue to fall short of these minimum obligations. For instance, according to the 2018 Emissions Gap report by UN Environment, Australia is not on track to achieve its 2030 Nationally Determined Contributions (NDCs) under the Paris Agreement.[6] This

(June 2018) ("…the Australian Government's 26-28 percent target is inadequate according to any recognised principle-based approach. It falls well outside the ranges suggested by both population-based and cost sharing approaches, and its fairness is not improved by the inclusion of metrics from hybrid models."); Matthew Wright & Patrick Hearps et al., The University of Melbourne and the Energy Research Institute, *Australian Sustainable Energy: Zero Carbon Australia Stationary Energy Plan*, at 126 (2010) ("Transitioning to a zero carbon future in Australia is achievable and economically feasible using the technology of today. The ZCA2020 Stationary Energy Plan demonstrates that converting Australia's energy sector to 100% renewable sources by 2020 is achievable using commercially available technology. Wind, solar, hydro and biomass resources can be combined with energy efficiency measures to adequately meet Australia's projected future energy demand."); A. Denis et al., ClimateWorks Australia, *Pathways to Deep Decarbonisation in 2050: How Australia can prosper in a low carbon world: Technical Report*, at 12 (2014) ("Australia has substantial potential to offset emissions via land sector sequestration. The illustrative pathway includes a shift in land use toward carbon forestry, driven by carbon abatement incentives, where profitable for landholders, but it does not include the sale of emissions offsets into overseas markets. The modelling results find that there is more than enough economic potential to shift land use to carbon forestry to offset all residual emissions to 2050 in all the sensitivities modelled, reaching net zero emissions by 2050.").

[3] *See, e.g.,* Roy, J. et al., *Sustainable Development, Poverty Eradication and Reducing Inequalities*, in *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*, at 447 (2018).

[4] *See* Hansen, et al. (2017); *see also* Susana Sanz-Caballero, *Children's rights in a changing climate: a perspective from the United Nations Convention on the Rights of the Child,* 13 Ethics in Science and Envtl. Politics1-2, 1-14 (2013); Perry E. Sheffield and Philip J. Landrigan, *Global Climate Change and Children's Health: Threats and Strategies for Prevention,* 119 Envtl. Health Perspectives, 291, 291-298 (2011).

[5] James Hansen et al., *Assessing "Dangerous Climate Change": Required Reduction of Carbon Emissions to Protect Young People, Future Generations and Nature*, PLOS ONE 8:12, 3763 (2013), at 18; *see also* James E. Hansen et al., *Target Atmospheric CO_2: Where Should Humanity Aim?* 2 The Open Atmospheric Sci. J. 217, 217-31 (2008) ("If humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted, Paleoclimate evidence and ongoing climate change suggest that CO_2 will need to be reduced from its current 385 ppm to at most 350 ppm."); James Hansen, Pushker Kharecha & Makiko Sato, *Climate Forcing Growth Rates: Doubling Down on Our Faustian Bargain*. 8 Envtl. Res. Letters 1, 7 (2013); James Hansen et al., *Ice Melt, Sea Level Rise and Superstorms; Evidence from Paleoclimate Data, Climate Modelling, and Modern Observations that 2ºC Global Warming Could be Dangerous.* 16 Atmos. Chem. Phys., 3761, 3801 (2015).

[6] UNEP (2018). The Emissions Gap Report 2018. United Nations Environment Programme, Nairobi, at 12. ("In its NDC, Australia announced a 26-28 percent reduction below 2005 levels of GHG emissions by 2030 (UNFCCC, 2016).There has been no improvement in Australia's climate policy since 2017 and emission levels for 2030 are projected to be well above the NDC target. The latest projection published by the government shows that emissions would remain at high levels rather than reducing in line with the 2030 target (Department of the Environment and Energy, 2017a; CAT, 2018c).")

is made all the more concerning given that Australia's NDC is comparatively unambitious;[7] the Australian government intends to count "carry over credits from the 2008-2012 Kyoto Protocol against its NDC (a piece of accounting that would have the effect of halving Australia's real-world emissions reductions);[8] and Australia's emissions are steadily rising each quarter.[9]

Additionally, the Australian government has failed to make a clear commitment to transition to a renewable energy economy despite international pressure to do so.[10] Instead, the Australian government continues to promote and incentivize its large thermal coal and LNG exports.[11] To that end, the Australian Minister for Energy has signaled support and potential public funding for the continued existence of the Liddell coal-fired plant past its planned closure in 2022[12] and potential public funding for the construction of new coal-fired power stations.[13] These actions—and refusals to act—threaten the long-term safety, health, and lives of the children living in Australia. These State actions that result in Australia sustaining high levels of greenhouse gas emissions and fossil fuel exports will ultimately undermine the Australian government's comparatively-modest efforts to fund climate adaptation domestically and in the Asia-Pacific region. [14]

4. Recommendations and Conclusion

Our Children's Trust requests that the Committee:

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[7] UNEP (2018) at xiv. ("Current commitments expressed in the NDCs are inadequate to bridge the emissions gap in 2030."); Lisa Cox, *Australia isn't on track to meet its 2030 emissions target, UN Report says*, The Guardian (Nov. 27, 2018), https://www.theguardian.com/environment/2018/nov/28/australia-isnt-on-track-to-meet-its-2030-emissions-target-un-report-says.

[8] Peter Hannam, *Scott Morrison's pea-and-thimble trick,* The Sydney Morning Herald (Feb. 27,2019), https://www.smh.com.au/environment/climate-change/scott-morrison-s-pea-and-thimble-trick-20190226-p51090.html.

[9] NDEVR Environmental, *Tracking 2019 Q3 Report,* https://ndevrenvironmental.com.au/tracking-2-degrees-fy2019-q3/.

[10] Aliki Bia, *Fijian PM speaks out on Australia's reliance on coal*, FBC News (Aug. 12, 2019), https://www.fbcnews.com.fj/news/fijian-pm-speaks-out-on-australias-reliance-on-coal/ ("*I appeal to Australia to do everything possible to achieve a rapid transition from coal to energy sources that do not contribute to climate change. That transition should be just for your own people and just for us here in the Pacific, where we face an existential threat that you don't face and challenges we expect your governments and people to more fully appreciate."-Prime Minister of Fiji, Voreqe Bainimarama); see also Mark Diesendorf , The Australia Institute, Renewable electricity policy for Australia, 3 (Nov. 2018). ("*A substantial majority of Australians is concerned about climate change (73%) and agrees that the Government needs to implement a plan to ensure the orderly closure of old coal plants and their replacement with clean energy (70%) within the next 20 years (67%). Furthermore, an overwhelming majority (84%) of Australians support the statement that "the government should focus on renewables, even if this means we may need to invest more in infrastructure to make the system more reliable". Yet the Liberal National Coalition (LNC) Federal Government continues to promote coal, has a very weak greenhouse gas target (26-28% reduction) for 2030, has discarded its very weak renewable energy target (26% of electricity) for 2030, has no policies capable of driving a transition to a predominantly renewable energy future and still has legislation, stalled in the Senate, to undermine existing policies, namely to close the Australian Renewable Energy Agency (ARENA) and the Clean Energy Finance Corporation (CEFC).").

[11] Callum O'Reilly, *Australia ramping up LNG production,* Hydrocarbon Engineering (Aug. 13, 2019), https://www.hydrocarbonengineering.com/gas-processing/13082019/australia-ramping-up-lng-production/; Martin Farrer, *The Guardian* (March 29, 2019), https://www.theguardian.com/environment/2019/mar/29/chinas-policies-put-australias-5bn-coal-export-earnings-at-risk ("Australia is the second largest exporter of thermal coal in the world, with 208m tonnes worth $26bn exported last year.")

[12] Paul Karp, *Angus Taylor will not rule out taxpayers paying to replace or extend Liddel Coal plant's life,* The Guardian (Aug. 8, 2019), https://www.theguardian.com/australia-news/2019/aug/09/angus-taylor-will-not-rule-out-taxpayers-paying-to-replace-or-extend-liddell-coal-plants-life

[13] Katharine Murphy, *Now is the time for new coal plants, resources minister says*, The Guardian (March 7, 2019), https://www.theguardian.com/australia-news/2019/mar/07/now-is-the-time-for-new-coal-plants-resources-minister-says

[14] Kate Lyons, *Australia will fund a $500m climate change package for the Pacific, PM to Announce,* The Guardian (Aug. 12, 2019), https://www.theguardian.com/world/2019/aug/12/australia-will-fund-a-500m-climate-change-package-for-the-pacific-pm-to-announce.

- Express concern regarding the recent actions the Australian government has taken that contribute to ongoing high levels of greenhouse gas emissions in Australia, undermine the country's transition towards renewable sources of energy, and jeopardize the security of the region.
- Recommend that Australia consider and apply the best available climate change mitigation science in developing policies that prioritize transitioning away from fossil fuels, particularly coal and LNG exports, and investing in an energy sector dominated by renewable energy sources like wind, solar, pumped hydro, and geothermal.
- Recommend that Australia reassess and improve its 2030 unconditional NDCs in line with the best available science and lower its quarterly emissions.
- Recommend that Australia address the particular vulnerabilities of children in its current and future policies, legislation, and programs that address climate change and its effects.

Finally, we strongly urge the Committee, through its recommendations and consistent with its mandate, articulate a standard for climate change mitigation that is protective of children's rights under the CRC. This standard should be based on the best available science discussed above. Such a standard will provide a clear yardstick for upholding the rights of children in the face of the climate crisis, and against which State party actions can be assessed.