

**20th September 2022**  
**Submission to the Call for Expert Evidence:**  
**Climate Action Plan 2023**

Submitted in our capacity as independent researchers at [REDACTED]  
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### **Legal requirements for Climate Action Plan 2023 (CAP2023)**

We reference the Climate Action and Low Carbon Act 2015, as amended 2021, noting the legal requirements for the Minister in preparing a Climate Action Plan (CAP), under Art.4:

- (2) **The Minister shall, when preparing a climate action plan under subsection (1)(a)—**
  - (a) **ensure that the plan is consistent with the carbon budget programme,**
  - (b) **set out a roadmap of actions, to include**
    - (i) **sector specific actions that are required to comply with the carbon budget and sectoral emissions ceiling for the period to which the plan relates,**
    - (ii) **sector specific actions that are required to address any failure, or projected failure, to comply with the carbon budget and sectoral emissions ceiling for the period to which the plan relates**
- (3) **The roadmap of actions referred to in subsection (2)(b) shall**
  - (a) **specify measures that, in the Minister's opinion, will be required for the first budget period in a carbon budget programme,**
  - (b) **set out an overview of the policies and, to the extent feasible, measures, that, in the Minister's opinion, will be required for the second budget period in a carbon budget programme, and**
  - (c) **outline potential policies that, in the Minister's opinion, may be required for the third budget period in a carbon budget programme.**

CAP2023 will be the first CAP to be issued since the first two Carbon Budgets were adopted by the Oireachtas and came into effect on April 6th 2022. So, *unlike any previous CAP*, CAP2023 is the first that must comply with the above legal requirements. The first five-year carbon budget (CB1) limit is **295 MtCO<sub>2</sub>e** from the beginning of 2021 to the end of 2025.

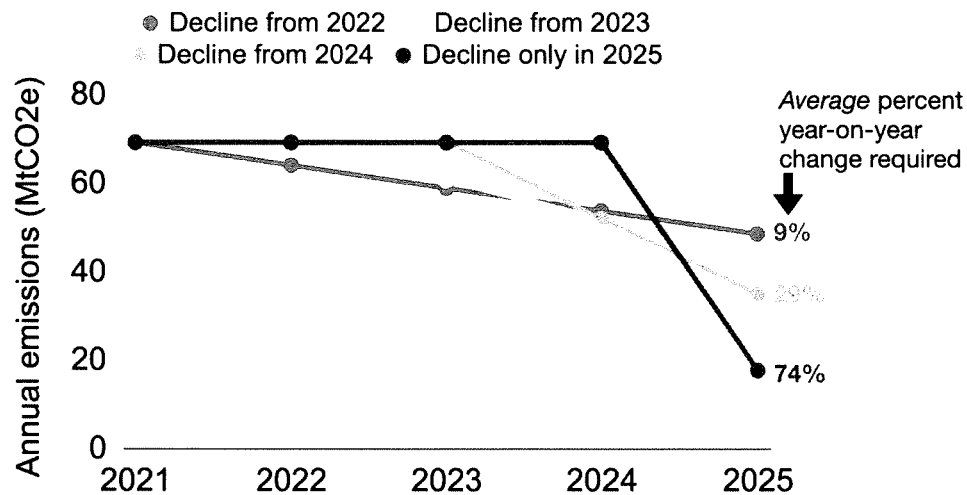
As per the Act then, it is required that the Minister ensures that CAP2023 is consistent with meeting CB1, that it sets out a roadmap of actions consistent with meeting CB1 by the end of 2025, that it includes the necessary sector-specific actions to comply with the relevant sectoral emission ceilings (SECs) specified by the Government, and that CB2 is also met.

### **Risk of 2021–2025 carbon budget failure is escalating quickly**

Referring to Art.4 (2)(ii) and (3), we note with deep concern that in our assessment there is already a very high and escalating risk that CB1 will be very substantially exceeded unless urgent corrective action to limit emissions is taken immediately and such deep society-wide action is sustained from now on. Therefore, SEC2023 will need to include a roadmap of the

additional actions now required to comply with CB1 and an overview of the policies required for the CB2 budget period 2026–2030.

## Meeting Ireland's Carbon Budget, 2021-2025?



Given that 69.3 MtCO<sub>2</sub>e was already emitted in 2021, our comparative analysis in the chart above shows annual emission pathways assuming that no reduction is achieved until emission reduction finally begins at the start of 2022, 2023, 2024, or 2025, respectively. Each pathway meets the CB1 295 MtCO<sub>2</sub>e total by the end of 2025, but the average year-on-year percentage change required rises dramatically with every year of excess emissions.

Already 2022 emissions are projected to equal the 2021 value. **Therefore, it is now essential that CAP2023 brings forward new and additional actions to materially address this projected failure.**

## International Aviation and Shipping must be addressed

Further, a prominent omission from previous Climate Action Plans are *any* measures to meaningfully address the Irish contribution to emissions arising from international shipping and aviation. While such emissions fall outside the accounted (strictly territorial) carbon budgets established under the 2021 amendment to the Climate Act, they remain both ethically and legally the responsibility of Irish society to mitigate.

This is so *ethically* on the basis of the gross global inequity in access to aviation in particular. It is so *legally* on the basis that the *setting* of the territorial budgets under the 2021 Act requires that they be *consistent* with the commitments of the Paris Agreement, and there is clear legal opinion that emissions from international aviation and shipping fall within the Paris

Agreement scope<sup>1</sup>, and responsibility for effective action therefore lies squarely with the Parties to the Agreement, including Ireland.

This *must* be addressed by CAP2023.

## **Prudential climate action planning now requires radical measures**

It is clear that the Actions identified in the CAP2021 are wholly insufficient to meet CB1. There is a serious risk CB1 will be exceeded by a margin that results in a material reduction in CB2 for 2026–2030 (as required under Art.6D.(5)). CAP2023 must set out a roadmap to avoid this outcome. Moreover, the Environmental Protection Agency has found that land use (LULUCF) emissions are about 2 MtCO<sub>2</sub>/year higher than had been previously estimated, due to forest organic soil carbon losses, implying that forest harvest and all peat extraction will have to be greatly curtailed even to limit the projected rise in land emissions.

**To avoid carbon budget failure, prudential climate action urgently requires that CAP2023 commit to Actions that each clearly set out their associated cumulative carbon reduction. CAP2023 must show how Actions add up to meet CB1 and CB2.**

CAP2023 will need to put in place far deeper and potentially disruptive measures than considered to date. The basic problem is that climate action requires substantial reductions in the amounts of fossil carbon (oil, coal, gas, peat for fuel, and limestone for cement) and reactive nitrogen (in imported fertiliser and animal feed) being used by Ireland's industries, agriculture, and society while still maintaining social cohesion in transition. It is our strong view that, *in addition* to the actions proposed to date, it is now *also* essential to introduce *hard caps* on the total flow of fossil fuels and reactive nitrogen (precursor of most agriculture related emissions) into Irish society. The general mechanism of such caps is already well established at European level through the operation of the EU-ETS system.

This principle should now be applied at a national level, with comprehensive coverage of all relevant national emissions. **Doing so on a basis of fairness and societal justice requires some form of equitable rationing of allowances under these caps.**

Such equitable rationing systems have already been the subject of exhaustive academic study<sup>2</sup>: they now need to be demonstrated in practice. This is a critical opportunity for Ireland to show international leadership in climate mitigation policy, and, critically, to use this to effectively catalyse much larger scale multilateral action (at EU level, at UNFCCC level, and more generally through ongoing, proactive, climate diplomacy).

**However, none of this will be possible without a strong society-wide licence for the required actions. Finally then, CAP2023 must contain dramatically stronger actions to communicate and facilitate the most widespread possible societal understanding and engagement with the global climate emergency.**

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<sup>1</sup> [Inclusion of emissions from international aviation and shipping in Nationally Determined Contributions](#): Legal Advice of Estelle Dehon, Cornerstone Barristers, London, May 2021.

<sup>2</sup> For example: [Nerini et al. 2021](#); [Alexander and Floyd. 2020](#); [Parag and Fawcett, 2014](#); [McMullin, 2017](#).