

An aerial photograph of a coastal road, likely the Esplanade in Queensland, Australia. The road runs parallel to the ocean, with waves breaking on the right side. On the left, there is a rocky coastline with some vegetation. A red rectangular overlay box is positioned on the left side of the image, containing the title text. A small white square is also visible on the road surface.

Climate and Nature- related Risk Governance Guide for Community Legal Centres in QLD

Prepared for
**Community Legal
Centres Queensland**
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ACKNOWLEDGEMENT OF COUNTRY AND OF TRADITIONAL CUSTODIANS

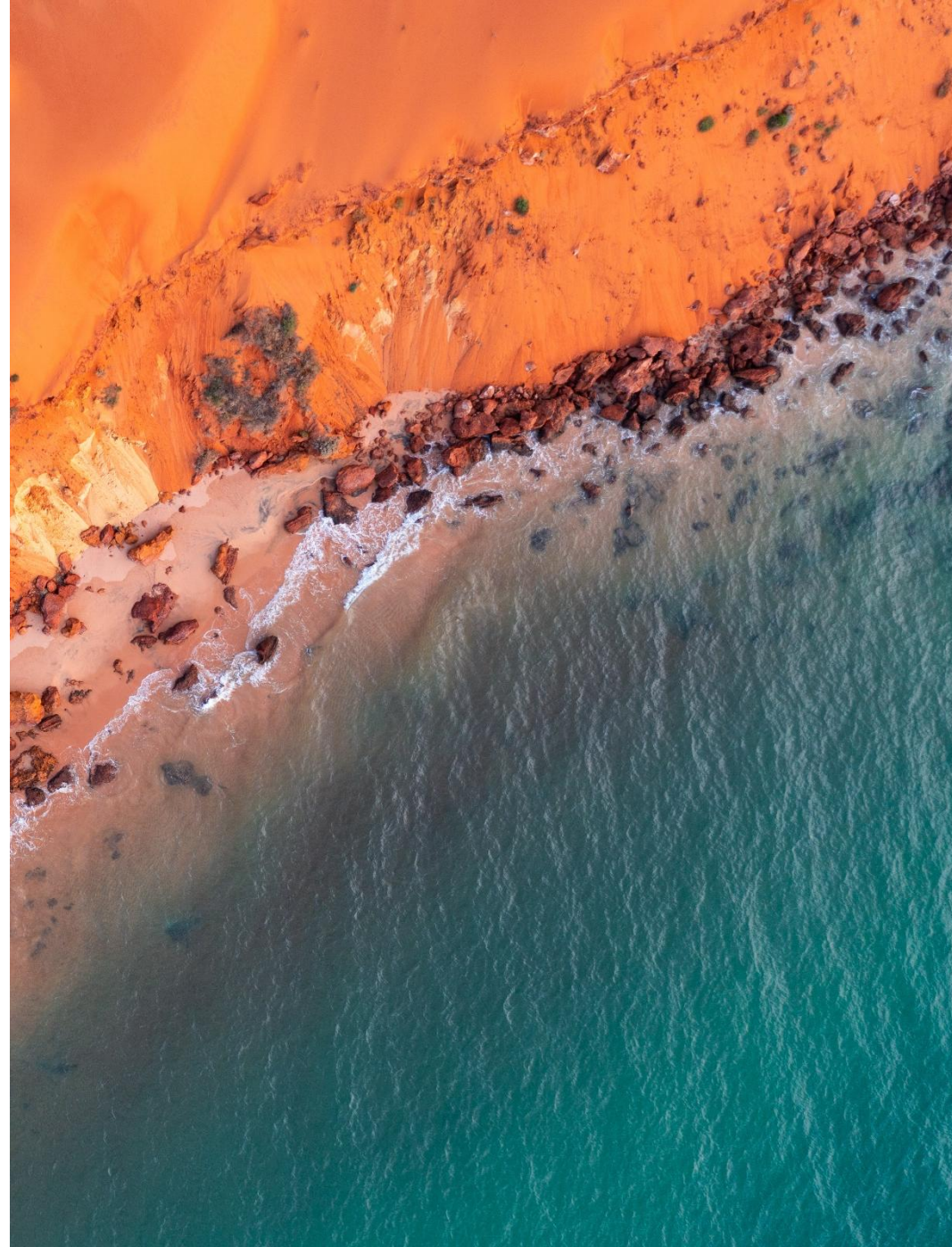
We are committed to honouring Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters and seas and their rich contribution to society. We acknowledge the diversity, stories, traditions and living cultures of Aboriginal and Torres Strait Islander peoples and commit to fostering a culture of learning from and working with First Nations peoples in the spirit of reconciliation and access to justice.

Community Legal Centres Queensland pay our deepest respect to Aboriginal and Torres Strait Islander peoples¹ as the traditional custodians of the land and seas in Australia, and recognise their continuing connection to land, water and culture.

We pay our respects to ancestors and Elders, past and present, and particularly pay deep respect to the Turrbal and Jagera peoples, traditional custodians of the lands around Meanjin (Brisbane), on which the Community Legal Centres Queensland office sits and all of the lands on which community legal centres across Queensland are located.

We acknowledge sovereignty was never ceded, and take meaningful steps to supporting self-determination for all First Nations peoples. Always was. Always will be.

Community Legal Centres Queensland further acknowledges the harm of climate change and extreme weather events on First Nations peoples who have contributed the least to climate change yet bear the full force of its impacts. We recognise that climate change is an ongoing legacy of colonisation, and that we must centre First Nations wisdom about care for Country and community in all efforts to address climate change. There can be no climate justice without First Nations justice.



¹ Source: Welcome to Country & Acknowledgement of Country - Creative Spirits, <https://www.creativespirits.info/aboriginalculture/spirituality/welcome-to-country-acknowledgement-of-country>.

Overview

It is often easy to lose sight of the profound existential threat posed by climate change when it is viewed as a risk to be managed.

Queensland is on the frontline of climate change impacts; it is the most disaster-prone state in Australia and will experience some of the harshest climatic projections in the coming decades. These impacts will not affect people equally. They will be unevenly distributed across racial, class, gender, poverty, generational and ethnic lines.

For First Nations peoples, climate change undermines their connection to Country and cultural obligations to care for Country. It also exacerbates everyday injustices across policing, discrimination, homelessness, racism, child protection and systems violence. As a sector that is guided by principles of self-determination, equality and non-discrimination, climate change is ultimately a matter of justice and human rights.

Advancing climate justice requires First Nations perspectives to be at the heart of all our work. Aboriginal and Torres Strait Islander peoples have unique cultural rights, knowledge, and wisdom about adapting to a changing climate, and caring for Country.

This *Climate and Nature-related Risk Governance Guide for CLCs (Guide)* is a risk management tool that is situated within a broader context of climate justice.

We recommend that this Guide be applied in the context of CLCs' ongoing work to develop dialogue, relationships, and trust with First Nations communities. The CLCQ First Nations Framework 2025-2030 provides clear guidance around taking proactive steps to integrate First Nations perspectives across CLC service delivery and governance. This Guide should be read in conjunction with the Framework for an integrated approach, adopted by all community legal centre staff, leadership and management.

The Guide was developed in consultation with CLCQ members and the CLCQ First Nations Reference Group. Community Legal Centres Queensland wishes to sincerely thank MinterEllison for producing this Guide on a pro bono basis. It was written by Keith Rovers and Lizzy Enright within the Social Impact team. Led by Penny Sullivan at CLCQ and consulting by Monica Taylor.

1. Purpose of this guide

This *Community Legal Centre (CLC) Climate and Nature-related Risk Governance Guide (Guide)* is designed to equip CLCs based in Queensland, particularly members of *Community Legal Centres Queensland (CLCQ)*, with the knowledge and strategies necessary to address the complex legal and risk management challenges that climate change presents.

While many CLCs will not be subject to mandatory climate reporting or other compliance requirements, developing *climate resilient* business models is integral to ensuring service continuity to those who likely cannot access alternative legal support, and to long term sustainability for the CLC sector.

Climate change at its heart is a human rights issue.² The impacts of climate change and the rapidly changing natural environment compromise fundamental human rights, such as the right to self-determination, food, water, health and housing.

In addition, climate change disproportionately impacts the rights of individuals and communities in vulnerable situations. First Nations people, who have contributed the least to the problem of climate change, are expected to suffer its worst impacts.³ To compound this issue, often insufficient weight is given to First Nations' voices

in designing and implementing climate adaptation and mitigation measures.

CLCs are uniquely positioned to advocate for those who will be most affected by climate change, given they are embedded within communities and support those who are socially, economically and politically marginalised.

This Guide aims to underscore the importance of a mindset shift from viewing climate and nature-related risk management as a 'nice to have' to a strategic imperative and intrinsically linked to CLCs' role in assisting individuals and communities most at risk of climate harm.

Of course, it's crucial to recognise that CLCs are typically capacity constrained and that CLCs' core mission is to prioritise service delivery to clients in need (in order to fulfil their charitable purpose⁴ and satisfy the requirements of various funding agreements⁵). Accordingly, this Guide focuses more on risks than opportunities, to reflect that CLCs are dealing with capacity constraints such that they may need to prioritise managing risk, rather than exploring opportunities (such as adopting energy efficient technology to save costs or developing new service lines).

Recognising the particular challenges posed by Queensland's diverse climate and natural environment, the Guide is tailored to address these specific local considerations. Likewise, this Guide aims to encourage CLCs in Queensland to consider how they can centre the voices of First Nations' communities and individuals when developing climate resilient service delivery models, and ensure that community engagement is at the heart of formulating responses to climate and nature-related risks and opportunities.

We hope this guide will assist you to proactively consider how rapidly evolving climate and nature-related risks may affect your clients and the ability of CLCs to provide services, as well as opportunities to develop more sustainable business models and take a climate conscious approach to daily legal practice and advocacy.

² United Nations, Human Rights Council, Resolutions 10/4 (2009), 29/15 (2015), 47/ 24 (2021), 53/6 (2023) (amongst others).

³ Office of the High Commissioner for Human Rights, Submission to the 21st conference of the Parties to the United Nations Framework Convention on Climate Change, 27 November 2015.

⁴ Most CLCs in Queensland (including all of CLCQ's members) are registered charities with the ACNC and therefore must ensure activities undertaken are in furtherance of their charitable purpose.

⁵ CLCs in Queensland (and throughout Australia) are mostly funded through state and federal government funding. We have reviewed the publicly available funding breakdowns of each CLCQ member as at the date of this Guide (based on current data from the ACNC) and found that 87.88% of funding for CLCs in Queensland comes from government (a total of \$109,798,864).

2. Scope of this guide



Part 3 of the Guide outlines the **key reasons** that climate and nature-related risk governance is important for CLCs (service delivery disruption and impacts on CLC clients, CLC director obligations and the duties of CLC legal practitioners).

Part 4 of the Guide seeks to **define** climate and nature-related risks.

Part 5 provides a brief overview CLC **directors' duties** in the context of emerging climate and nature-related risk and explains the extent to which regulatory and compliance requirements in this area apply to CLCs.

Part 6 of the Guide sets out the **evolving duties of legal practitioners** in light of climate and nature-related risks and how legal practitioners can integrate a climate conscious approach.

Part 7 of the Guide sets out a **framework for considering climate and nature-related risks and opportunities** (including evolving areas of legal practice).

Finally, Part 8 of the Guide will offer **practical steps** for CLCs to enhance climate and nature-related risk governance.

Overall, this Guide serves as a **resource** for CLCs to navigate the legal complexities of climate change, mitigate risks, seize opportunities, and uphold their **mission** in the face of environmental challenges.

As Monica Taylor and Bronwyn Lay summarise,



*The community legal sector has an opportunity to influence the legal system to be responsive to the needs of our shared environment upon which social justice and human rights outcomes depend."*⁶

⁶ Monica Taylor and Bronwyn Lay, [Community lawyering and climate justice: A new frontier](#), 2022 (sagepub.com).



3. Why is climate and nature-related risk governance important for CLCs?

3.1 Service delivery disruption and impacts on CLC clients

Climate change threatens to fundamentally disrupt many service delivery and client-facing sectors, including community legal centres (and the legal profession more generally, which is discussed below). It is integral that CLCs effectively manage service delivery disruption that may be caused by climate change, so they can continue to achieve their charitable purpose and satisfy service delivery standards in funding agreements (this funding being integral to most if not all CLC business models).

In addition to the practical challenges that service delivery disruption may pose to the CLC itself, many *CLC clients* are likely to face the most severe consequences of climate change. This in turn will significantly impact CLCs' capacity and capability to provide services, triage models and funding needs – constrained organisations may become more squeezed and less able to meet a growing need for support. This is because despite contributing the least to rising temperatures, the impacts of climate change will disproportionately affect people in vulnerable situations (which can include factors such as geography, poverty, gender, age, Indigenous or minority status, national or social origin, birth or other status and disability)⁷.

Vulnerable communities cannot afford to insulate themselves from the likely increases in *housing and food*

insecurity and other *social and economic volatilities* that climate change will bring and have limited opportunities to influence policy decisions. Importantly, this includes First Nations people, who have a deep knowledge and connection to land and sea, but are seldom engaged when it comes to climate change policy or risk management.

As recognised by the *United Nations Environment Programme*:



*Climate change is one of the greatest threats to human rights of our generation, posing a risk to the fundamental rights to life, health, food and an adequate standard of living of individuals and communities."*⁸

CLC clients in QLD will also inherently experience heightened risk due to Queensland's geography and extreme climate and weather risks (discussed below).

As illustrated by Figure 1, Queensland's population is particularly vulnerable to a changing climate (eg because 85% of Queenslanders live near the coast)⁹ and the impact of more severe weather events are already being felt across the economy. For example, climate change is already impacting the Great Barrier Reef which contributes \$6.4 billion to the Australian economy and 64,000 jobs.¹⁰

CLCs will face the challenge of needing to anticipate (and mitigate) these potential disruptions to service delivery and flow on effects for staff, clients and other stakeholders. This challenge is exacerbated by the fact that CLCs are typically capacity constrained and cannot pivot into new areas of law, catchment areas or create new client access pathways without the requisite funding (and existing funding agreements may in fact preclude 'low bono' or other offerings).

In saying that, CLCs are in many ways uniquely positioned to identify emerging and intersecting legal issues (and apply a local or place-based lens) given their frontline work with clients. Likewise, CLCs have an opportunity to leverage existing expertise around social inequalities to create service delivery models and risk management frameworks that recognise the interplay between sustainability, climate risk governance, human rights and client-centric practice.

Notably, CLCs' wrap-around services, including mental health and disability supports, will become even more

⁷ OHCHR, [The impact of climate change on the rights of people in vulnerable situations](#), 2022.

⁸ UNEP, [Climate Change and Human Rights](#), December 2015.

⁹ Queensland Government | Department of Environment and Resource Management, [Queensland Coastal Processes and Climate Change \(longpaddock.qld.gov.au\)](#), April 2011.

¹⁰ Deloitte Access Economics, [At what price? The economic, social and icon value of the Great Barrier Reef](#), 2017. Note that these are the most recent publicly available statistics on the economic value of the Great Barrier Reef.

essential to assisting clients with complex needs. Climate governance should not be viewed as a siloed responsibility but as a shared objective across the entire organisation. By adopting a 'whole of organisation' approach, CLCs can ensure that climate and nature considerations are embedded in all aspects of service delivery, from legal advice to the provision of social and health services.

We have included some examples in Part 7, to demonstrate how climate and nature related risks may impact CLCs on a practical level.

3.2 CLC director obligations to consider climate and nature-related risk

CLC directors have a *duty to act with care and diligence*¹¹ and balance the foreseeable risk of harm against the potential benefits that could reasonably be expected to flow when considering the activities of an organisation and making business judgments.¹²

This duty applies equally to *climate and nature-related risks*, so directors must identify risks that are material and foreseeable (such as a significant disruption to service delivery, or even reputational risk) and then manage those risks appropriately.

We discuss this issue further in Part 5 (*CLC directors' duties and the regulatory landscape*). Climate risk governance is essential, despite CLCs not being subject to any mandatory climate reporting regimes¹³ (provided the CLC is an ACNC registered charity, which is the case for all CLCs in Queensland).

In addition, there is an increasing *expectation* from stakeholders (clients, staff, donors, government, regulators and the broader community), that board directors and senior management have climate and nature-related risks and opportunities on their radar, and have appropriate strategies and oversight measures in place. These 'soft law' expectations are an important pointer to future regulation and are therefore critical inputs for boards wanting to stay ahead of the regulatory and liability curve.



¹¹ All CLCs in Queensland are registered charities and subject to the ACNC Governance Standards and the requirements of the Associations Incorporation Act 1981 (QLD) or the Corporations Act 2001 (CTH), depending on their structure (incorporated association or company limited by guarantee). Section 180(2) of the Corporations Act and s.70E(2) of the Associations Incorporation Act (QLD) (and equivalent provisions in the ACNC Regulations) contain the 'business judgment' rule which provides a defence where certain processes have been followed in relation to business decisions where there is no material personal interest.

¹² N Hutley and S Hartford-Davis (with MinterEllison as instructing solicitors), *Memorandum of Opinion: Climate Change and Directors' Duties*, October 2016.

¹³ Mandatory climate reporting is on the way for approximately 6,000 Australian companies, phased in over the next few years, starting with the largest companies for financial years starting after January 2025. The relevant legislation Treasury Laws Amendments (Financial Market Infrastructure and Other Measures) Bill 2024 was passed by both houses on 9 September 2024. A breakdown of the new reporting regime requirements can be found here – <https://www.minterellison.com/articles/mandatory-climate-reporting-in-australia-landmark-climate-reporting-bill-introduced>.

3.3 CLC legal practitioner obligations to be 'climate conscious' lawyers

Lawyers have a duty to provide *informed, forward-thinking advice*. As climate change increasingly influences the legal landscape, lawyers need to understand its implications across various areas of law (eg housing and tenancy, social security, domestic and family violence, consumer credit, discrimination and employment, insurance, immigration and so-on).

This is particularly important where legal practitioners are assisting clients who may have less capacity to respond to, and recover from the impacts of climate change. In this way, becoming 'climate conscious' is important for lawyers to discharge their duty of care, duty to warn and duty to disclose to clients. We discuss this further in Part 5.4 (*Evolving duties of CLC legal practitioners*).

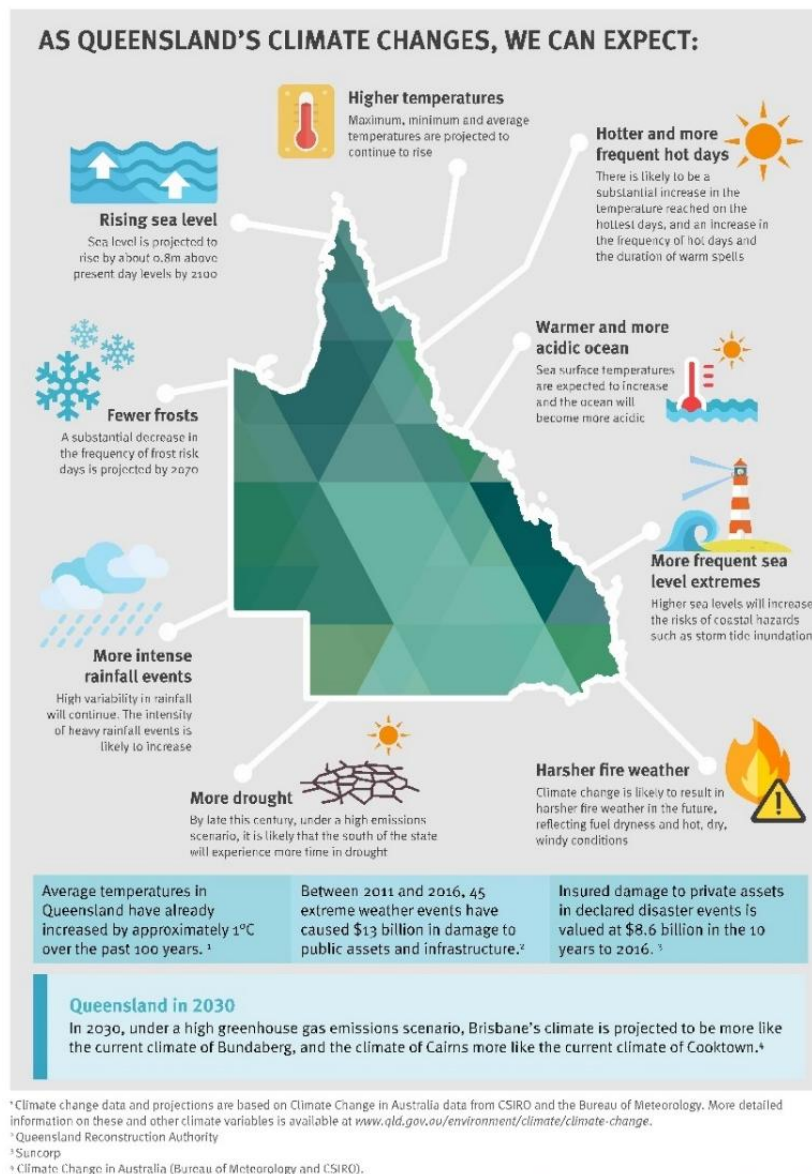


Figure 1: Queensland's changing climate

Source: Queensland Department of Environment and Heritage
 Protection, Pathways to a climate resilient Queensland:
 Queensland Climate Adaption Strategy 2017-2030.

4. What are climate and nature-related risks?

4.1 Climate risks

The *Task Force on Climate-related Finance Disclosures* (TCFD) is a globally recognised framework for companies to disclose their climate-related risks, opportunities and financial impacts. The TCFD divides climate-related risk into two key categories – transition risk and physical risk.¹⁴ These categories of risk can be used as a helpful framework for CLC directors and senior management to identify foreseeable and material risks.

Transition risk refers to risks that are a consequence of the shift to a lower carbon economy, including regulatory or legislative changes, market dynamics, and technological advancements that may affect or disrupt businesses.¹⁵

Physical risk includes acute risks (eg extreme weather events and natural disasters) and chronic risks (eg longer term changes in weather patterns, rising sea levels).

There is also **Liability risk** (which can cut across both Transition and Physical risks), which is the potential for legal claims arising from the failure to deal with climate-related impacts (litigation in this area is often used as a strategic tool by activists to raise the profile of a particular issue or drive change but can also include

action taken by regulators).¹⁶ The TCFD framework (and other regulatory frameworks) do not deal with this as a standalone risk, but it is widely recognised as a significant issue, evidenced by increasing regulatory activity in Australia.¹⁷

4.2 Nature-related risks

The *Taskforce for Nature-related Financial Disclosures* (TNFD) is a globally recognised framework that encourages companies to integrate nature into decision-making. It defines nature-related risks as 'potential threats to an organisation that arise from its and wider society's dependencies and impacts on nature'.¹⁸

Nature-related risks have been historically under-recognised and undervalued in corporate decision-making and value chains, but momentum is quickly building around the need to monitor, evaluate and address these issues.¹⁹

For example, the government is taking a 'climate first, but not only'²⁰ approach, and the recent Sustainable Finance Roadmap, published by the Treasury foreshadows government interest in progressing nature-related initiatives, including tools and guidance for voluntary nature-related reporting.²¹ Likewise, there is a push for

businesses to reduce use of natural resources and protect biodiversity.²² The Australian government is also a signatory to the Kunming-Montreal Global Biodiversity Framework, which commits nations to halting and reversing nature loss by 2030.

Nature itself is made up of four 'realms': **land, ocean, freshwater** and **atmosphere** (see Figure 2).

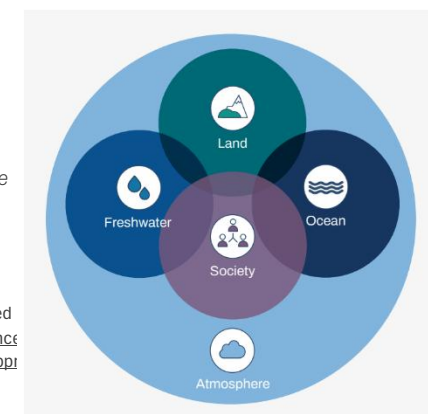
The TNFD has developed the 'LEAP' approach, which stands for Locate, Evaluate, Assess, and Prepare.²³ This is a useful starting point for CLC directors, senior management and legal practitioners (where required) to map out nature-related risks and dependencies that may be relevant to their CLC and service delivery to clients. This is reflected in Figure 2 which shows 'Society' sitting across all four realms, both in its dependency and impacts on nature.

In particular, the significance of nature and connection to Country and the devastating impacts of nature and biodiversity loss to First Nations people also need to be considered when mapping nature-related risks and dependencies.

Figure 2: The Four Realms of Nature

Source:
Recommendations of the Taskforce on Nature-related Financial Disclosures

²³ Taskforce on Nature-related Financial Disclosures, *Guidance related issues: the LEAP approach*



¹⁴ Taskforce on Climate-related Financial Disclosures, *Taskforce on Climate-related Financial Disclosure Recommendations*, June 2017.

¹⁵ M Smyth and G Gee, Law Society of NSW Journal, *The Legal Implications of Climate Change*, March 2024.

¹⁶ MinterEllison, *The Carbon Boomerang: Litigation as a Driver & Consequence of the Energy Transition*, September 2017.

¹⁷ ASIC, Media Release, ASIC continues action on misleading claims to deter greenwashing misconduct, 23 August 2024.

¹⁸ Taskforce on Nature-related Financial Disclosures *Taskforce on Nature-related Financial Disclosure Recommendations*, March 2024.

¹⁹ MinterEllison, *Australia's Sustainable Finance Roadmap: A Comprehensive Guide*, 30 June 2024.

²⁰ Treasury (Cth), *Sustainable Finance Roadmap*, June 2024.

²¹ Ibid.

²² Productivity Commission, *Opportunities in the Circular Economy* (call for submissions, with interim report expected in February 2025), September 2024.

5. CLC directors' duties and the regulatory landscape

5.1 CLC directors' duties – climate and nature-related risks

As noted above, all directors (including CLC directors) must identify and manage *foreseeable* and *material* risks – including climate and nature-related risks.

The landmark Hutley Opinions²⁴ and Hartford-Bush Opinion²⁵ published in 2023 (**Opinions**) make it clear that directors must have climate and nature-related risks on their radar and manage risks appropriately.

If directors of a CLC fail to deal with these risks properly, this could mean they have breached the ACNC Governance Standards (particularly in relation to Governance Standard 5 which deals with the duties of Responsible Persons).²⁶

Failure to comply with one or more Governance Standards may result in action being taken by the ACNC Commissioner, which can include:

- enforceable undertakings;
- providing directions or warnings to the charity;
- potentially revoking charity status of the relevant charity; and
- suspending and removing individual directors.

Importantly, mismanagement of risks and action being taken by the ACNC in relation to a CLC can cause commercial and reputational issues (which can in turn lead to a loss of funding which is integral to CLC operations).

Over the past decade, the standard of care for directors regarding social and environmental issues has risen due to increased regulatory scrutiny, new rules and guidance standardised reporting frameworks, evolving community expectations the growing risk of litigation.²⁷

Boards should evaluate if they have the necessary skills and capabilities at both board and management levels to address climate risks and opportunities. Creating a skills matrix can help map and track these competencies over time.

5.2 Reporting on climate and nature-related risks

CLCs registered as charities with the ACNC are not subject to any mandatory statutory reporting regimes for climate and nature-related risks.

The Australian Government is currently phasing in mandatory sustainability reporting standards, but initially, the standards will only apply to Australia's largest companies,²⁸ and ACNC registered charities are

exempt. This exemption acknowledges the reporting burden on capacity constrained charities (such as CLCs). The new standards mandate disclosure of climate risks and opportunities that could impact the reporting entity's financial position (although notably do not require companies to actually reduce emissions).²⁹ The information required is set out in accounting standards published by the Australian Accounting Standards Board (**AASB**).

At the moment, companies do not have to report on nature-related risks, but the regime will likely be expanded to include this requirement in the coming years³⁰ and many companies are starting to disclose under TNFD frameworks. Although these standards don't apply to CLCs, the introduction of these new standards signal that there are increased expectations from stakeholders that companies understand the climate and nature-related risks in relation to their businesses.

While CLCs are not subject to reporting requirements (and this may be unlikely to change in the near future), it may be prudent for CLCs to familiarise themselves with the new reporting regime as the expectations for companies to identify, manage and report on climate and nature-related risks will likely only expand. As values-based organisations, CLCs will need to be cognisant of changing community expectations to act

²⁴ N Hutley and S Hartford-Davis, Memorandum of Opinion: Climate Change and Directors' Duties, 7 October 2016; Supplementary Memorandum of Opinion, 26 March 2019; Further Supplementary Memorandum of Opinion, 23 April 2021.

²⁵ S Hartford-Davis and Z Bush, Memorandum of Opinion: Nature-related Risk and Directors' Duties, 24 October 2023.

²⁶ The ACNC Governance Standards are most relevant to CLCs in Queensland because they are registered charities with the ACNC, meaning section 180 of the Corporations Act (which deals with the duty of due care and diligence) and the associated civil penalty regime does not apply.

²⁷ Centre for Policy Development, Climate Change and Directors' Duties, 23 April 2021.

²⁸ From 1 July 2025, 'Group 1' entities (entities with consolidated revenue of \$500m or more and other size-related tests) will need to report, and in subsequent years Group 2 entities (consolidated revenue of \$200m or more and other size related tests) and Group 3 entities (revenue of \$50 million or more and other size-related tests) will be subject to the reporting requirements.

²⁹ Reportable information includes information about a company's governance, strategy, industry metrics and targets and scenario testing.

³⁰ Under the draft Australian Sustainability Reporting Standards, the Minister has the power to expand the reporting regime to other types of sustainability reporting and the government has signalled that nature-related financial disclosures is likely on the horizon.

Nature-related reporting is likely to be even more complex, as it does not rely on a standardised unit of measurement like climate reporting (eg tonnes of carbon emitted).

with congruence and urgency on climate related priorities.

CLCs that aim to be a leader in sustainability and have the capacity may find it useful to report voluntarily (eg against AASB standards or TCFD/ TNFD frameworks).

Additionally, AASB/ TCFD/ TNFD standards require companies to assess nature and climate related risks and opportunities across value chains. CLCs that are in the downstream value chains of companies that are reporting should be ready to provide the required information and data (the intersection between CLCs and large companies' supply chains is likely limited, but something to keep in mind).

CLC boards should also ensure that systems are in place to monitor climate and nature-related regulatory developments to ensure the board is well prepared for any changes.

5.3 Managing greenwashing risks

It is also worthwhile for CLCs to reflect on the nature, scale and impact of their physical operations (eg carbon footprint and other sustainability factors), as well as any net zero strategy or sustainability ambitions they may wish to set publicly.

Any statements regarding net zero or sustainability ambitions need to be grounded in fact and have a reasonable basis. When setting targets, CLCs must consider how the sustainability of operations and practices align with their charitable mission and the sentiments of their stakeholders (in particular, any funding bodies).

If CLCs set climate targets and ambitions, it is important to keep 'greenwashing' risks in mind.

'Greenwashing' refers to 'the misrepresentation of a company's or entity's sustainability-related risks, credentials, strategies or those of its products or services'.³¹ Greenwashing is 'not a new source of law, but rather an application of existing misleading and deceptive conduct laws to sustainability-related claims'.³²

If representations are made in trade or commerce (eg providing community legal services), they may contravene section 18 of the Australian Consumer Law (ACL) which prohibits conduct that is misleading or deceptive. Specific prohibitions exist against misrepresentations in the supply of goods or services under Part 3.1 of the ACL.³³

The threshold for liability under these laws is relatively low. It is not necessary to prove that the company intended to mislead or that anyone was actually misled. Australian courts have noted that a person can act honestly and reasonably and still be liable. The determination of whether conduct is misleading or deceptive is objective, based on whether the overall impression given by the statement or omission would likely mislead or deceive a reasonable person in the

audience. 'Likely' means there is a real or not remote chance of misleading. Courts consider all relevant circumstances, including the broader context of the statement, such as fine print, qualifications, headlines, and images.

When making claims about climate targets, ambitions or sustainability, CLCs must ensure all claims are accurate, truthful, evidence-based, and measurable. All targets must be evaluated at regular intervals and adjusted as necessary to ensure alignment between progress and stated ambitions. This is integral to maintaining trust with clients, donors, funding bodies and the broader community.

Compliance with regulatory standards is essential to avoid greenwashing, and greenwashing is increasingly on the radar of regulators.³⁴ While no actions have been brought against registered charities, CLCs should be aware of the regulatory landscape and regulators' approach to these issues). Likewise, CLCs should ensure environmental claims meet local and national guidelines, such as those published by the Australian Competition and Consumer Commission.³⁵

By focusing on transparency, accountability, community engagement, and regulatory compliance, CLCs can effectively integrate genuine decarbonisation efforts into their risk management strategies, avoiding the pitfalls of greenwashing and maintaining the trust and support of the communities in which they operate.

³¹ Phoebe Roberts, Charlotte Turner and Tatum Joseph, [Introduction to "ESG" \(lexis.com\)](#), October 2023.

³² Ibid.

³³ Ibid.

³⁴ ASIC, [ASIC continues action on misleading claims to deter greenwashing misconduct](#), 23 August 2024.

³⁵ ACCC, [Making environmental claims - A guide for business](#), December 2023.

5.4 Applying a human rights lens to climate change and nature

Through case work and advocacy, CLCs routinely protect fundamental rights, including the rights to life, food, water, housing, and health. They play a vital role in advancing human rights objectives enshrined in international frameworks to which Australia is a party, such as the International Covenant on Economic, Social and Cultural Rights (**ICESCR**) and the International Covenant on Civil and Political Rights (**ICCPR**).³⁶ While these frameworks are not directly incorporated into domestic law,³⁷ they significantly influence the development of common law and the decision-making frameworks of public officials.³⁸

Directors of CLCs should proactively consider and plan for the growing impacts of climate change, recognising that it will likely exacerbate the human rights issues their practice specialises in, while making their mission even more critical. For example, rising sea levels, heatwaves, droughts, and more frequent and severe extreme weather events will displace people, create food and water insecurity, lead to poorer health outcomes, and increase poverty and the prevalence of violence.³⁹ These impacts threaten the principle in Article 26 of the UCCPR, which is central to the mission of every CLC, 'All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.'⁴⁰ Given the disproportionate impacts on marginalised communities, climate impacts currently represents one

of the most serious threats to the achievement of this Article. Although Australia is not currently a party to the UN Declaration on the Rights of Indigenous Peoples, Article 29 highlights that 'Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands.'⁴¹

Principle 10 of the UN's Guidelines on Access to Legal Aid also recognises the significance of equity in access to legal aid. This Principle suggests special measures should be taken to ensure meaningful access to legal aid for 'women, children and groups with special needs, including, but not limited to...indigenous and aboriginal people...and internally displaced persons.'⁴² Measures should also address the special needs of these groups, such as gender-sensitive and age-appropriate measures.

International human rights obligations provide a lens through which CLCs can assess the impact of climate change on their practice, framing their work as part of a global mission to uphold and achieve fundamental human rights.

As set out by the Australian Human Rights Commission (**AHRC**), a 'human rights-based approach' can assist organisations in ensuring their approach to certain issues, such as climate, help achieve freedom and dignity for all (in CLCs case, the focus would primarily be on clients).

In particular, the 'PANEL' principles (extracted below from the AHRC website⁴³) can provide a useful framework when setting strategy and making decisions in relation to climate and other related issues:

- Participation (are clients or other stakeholders able to participate meaningfully in decisions which may impact their human rights, including issues of accessibility);
- Accountability (is the CLC properly monitoring its goals which relate to human rights, eg sustainability initiatives);
- Non-discrimination and equality (does the chosen approach mean that all forms of discrimination are prohibited and that the needs of the people in the most vulnerable situations are met, given they face the biggest barriers to realise their rights);
- Empowerment (are clients and other stakeholders able to participate in the development of the policies and practices); and
- Legality (does the approach align with the principle that human rights and freedoms are legally enforceable entitlements).

³⁶ Australian Human Rights Commission, [Factsheet: Scope of international obligations](#), January 2024.

³⁷ Noting that section 48(1) of the Human Rights Act 2019 (Qld) requires statutory provisions, to the extent possible that is consistent with their purpose, be interpreted in a way that is compatible with human rights. Section 48(3) of the same legislation notes that international law and the judgments of domestic, foreign and international courts and tribunals relevant to a human right may be considered in interpreting a statutory provision.

³⁸ Parliament of Australia, [Trick or Treaty? Commonwealth Power to Make and Implement Treaties – Chapter 6](#), November 1995.

³⁹ KPMG & RIAA, [Human Rights & Climate Change](#), December 2021.

⁴⁰ *United Nations International Convention on Civil and Political Rights*, adopted 23 March 1976.

⁴¹ *United Nations Declaration on the Rights of Indigenous Peoples*, adopted 13 September 2007. We note that at the 2024 COP16 summit, Indigenous Peoples and people of African descent and their communities were recognised as key stewards in conservation efforts.

⁴² United Nations, [Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#), June 2013.

⁴³ AHRC, [Human rights based approaches](#), last accessed 12 May 2025.

6. Evolving duties of CLC legal practitioners

6.1 Overview

As the impacts of climate change on clients intensify, lawyers face increasing expectations to develop a *functional fluency* in climate and nature-related risks so that they can advise their clients appropriately.

Whilst these practitioner duties have generally only been enlivened so far in relation to corporate and commercial law (eg corporate governance and fiduciary duty considerations and now the need for lawyers to advise companies properly about mandatory disclosure requirements), it is likely that these claims will become relevant for CLC practice areas as well (we discuss emerging areas of climate-related law that may impact CLCs in Part 7). For example, given that climate change will likely increase housing and energy insecurity,⁴⁴ CLC legal practitioners may need to be across how this may impact their clients' circumstances and ability to access support.

This means CLCs, like all legal service providers, will need to ensure that their staff up-skill in this area over time. Subject to resource and capacity constraints, CLCs might consider providing professional development training to legal staff in relation to evolving climate risks. This may be particularly important for CLCs operating in areas of Queensland that are most exposed to natural disasters and other extreme weather events.

All climate law work should also centre First Nations knowledge and perspectives. CLCQ has developed a *First Nations Strategic Framework (Framework)* that will inform and assist CLCs' work in this area.

The Framework incorporates key themes around four pillars to guide action by CLCs so that First Nations peoples feel safe and confident to access assistance or work at every Queensland CLC. The four pillars identify areas for action that include improving cultural capability in working for and with First Nations peoples, and building community connection and relationships. The pillars offer a strong foundation upon which CLCs in Queensland can take proactive steps to integrate First Nations perspectives into climate and nature strategies. For example, developing a comprehensive climate strategy requires centring First Nations people in discussions and planning in a way that recognises the value of their unique perspectives and potential solutions. However, preceding the development of any such strategy a CLC must have strong cultural capability and a deep commitment to developing and maintaining long-term relationships and continuous engagement with local and wider First Nations networks.

The Law Council of Australia recently prepared a Climate Change Policy that notes universities and professional development providers are already responding to the legal industry's increasing need to develop 'specialist, climate-related legal knowledge and skills.'⁴⁵ NSW Law Society has also produced a Practitioner's Guide on Climate Change which examines the intersection of climate change and legal practice.⁴⁶ We have set out how climate and nature-related risks intersect with legal practitioner duties below.

6.2 Duty of care

Lawyers are now expected to advise clients on relevant climate and nature-related risks, particularly in instances where a lawyer is aware of obvious risks, they have specialised expertise, and perhaps most relevantly for CLCs, where a client may be in vulnerable circumstances.⁴⁷

Courts may find a lawyer has breached their duty of care owed to a client if there are physical or transition risks that could have reasonably been expected to inform legal advice provided to a client.

⁴⁴ Climate conscious lawyering is already being woven into existing frameworks. For example, the [Chancery Lane Project](#) is a network of global lawyers that prepare template clauses to be inserted into commercial contracts. Such as, [Briony's Model Clause](#), which imposes obligations on a landlord to provide 100% renewable energy.

⁴⁵ Law Council of Australia, *Climate Change Policy, Policy Statement - Climate Change Policy* - Law Council of Australia, 27 November 2021.

⁴⁶ NSW Law Society, *Climate Change Practitioner Guidance*, 2023.

⁴⁷ E Wild and S Mansfield, Law Society of NSW Journal, *Climate risks: Do lawyers owe a duty of care?*, 2 June 2023.





A climate conscious approach demands, first, actively identifying the intersections between the issues of the legal problem or dispute and climate change issues and, secondly, giving advice and litigating or resolving the legal problem or dispute in ways that meaningfully address the climate change issues.”¹

6.3 Duty to warn and disclose

A lawyer's duty exceeds the obligation to simply explain the legal consequences of documents. Lawyers are also expected to advise on the 'practical implications' of a client's decision(s).⁴⁸ Likewise, when providing advice, the Solicitors Conduct Rules requires lawyers to assist clients to make informed choices about the most appropriate course of action to take.⁴⁹ In a climate context, this means that subject to confidentiality and other similar principles, lawyers need to communicate the practical implications that can flow from particular climate and nature-related risks and provide appropriate guidance to clients.

6.4 Duty to uphold service and competency levels

The duty to warn and disclose, understood in isolation, could support an approach where lawyers remain wilfully ignorant of climate and nature-related risks, so they are not required to consider these risks in the course of their practice. However, lawyers have an ongoing obligation to deliver legal services 'competently and diligently',⁵⁰ and must not 'diminish public confidence in the administration of justice'.⁵¹ This means that as climate and nature-related risks evolve, lawyers have an increasing duty to understand how the changing climate may impact their clients.

As noted above, this also means that law firms (including CLCs) need to consider how to properly up-skill and train lawyers in this regard (which will assist in mitigating risks of professional negligence claims).

6.5 'Climate conscious' legal practice

The Chief Judge of the *Land and Environment Court of New South Wales*, Preston CJ, outlines five ways that lawyers can implement a climate conscious approach into their daily practice that is consistent with legal ethics:

- (a) **Holistic legal advice** – legal problems are never only about the law. CLCs are well placed to recognise the financial, emotional, psychological, social, environmental and ethical consequences of different courses of action.⁵²
- (b) **Identification, interpretation and application of legal rules** – the reality of providing legal advice is that often, identifying, interpreting and applying the law to a particular legal problem will require decisions to be made based on incomplete and constantly evolving information. The requirement to interpret legal rules creates opportunities for climate conscious lawyers to promote climate change goals insofar as that interpretation is consistent with generally agreed standards of interpretation and a lawyer's fundamental ethical duties.⁵³

⁴⁸ *Provident Capital Ltd v Papa* [2013] NSWCA 36, [80].

⁴⁹ *Australian Solicitors Conduct Rules*, r 7.1.

⁵⁰ *Ibid*, r 4.1.3.

⁵¹ *Ibid*, 5.1.2.1.

⁵² Preston CJ, *Climate Conscious Lawyering*, 95 *Australian Law Journal* 51 (2021), 3. (Link to speech)

⁵³ *Ibid*, 8-9.



- (c) **Ethical duties of lawyers** – the legal profession has codified ethical and moral duties that demand more than simply carrying out a business or offering services to clients – lawyers need to consider the ideals of 'truth, justice and fairness'⁵⁴ when providing advice. Climate conscious lawyering recognises the injustice that the impacts of climate change can cause and the role of lawyers of applying ethical thinking to legal practice. As trusted advisors, lawyers are expected to navigate the complexities of a rapidly evolving climate landscape with integrity and foresight.
- (d) **Overriding duty to the court** – a lawyer's paramount duty is to the administration of justice and the court, which overrides acting in any client's best interests.⁵⁵ 'Climate conscious lawyers should advise and act in ways that uphold and advance the fundamental values of the legal system, including climate change justice.'⁵⁶
- (e) **Personal ethical approach** – ethical thinking and action should be integrated into day-to-day legal practice. This is particularly relevant at a community level, particularly given that climate change has been recognised as being fundamentally a human rights issue.



⁵⁴ Ibid, 20.

⁵⁵ *Australian Solicitors Conduct Rules*, r 3.1.

⁵⁶ Preston CJ, *Climate Conscious Lawyering*, 95 Australian Law Journal 51 (2021), 24. ([Link to speech](#))



7. Identifying CLC specific climate and nature-related risks and opportunities

7.1 CLC specific climate and nature-related risk

As set out in Part 3 (*Why is climate and nature-related risk governance important for CLCs?*), one of the key risks that climate change poses to CLCs is service delivery disruption. Likewise, the needs of clients are likely going to evolve and expand – particularly given that clients of CLCs may bear the brunt of the impacts of climate change and require the most support to recover and adapt. We have set out some specific examples below of how service lines may be disrupted and shift over time. While these changes may increase or vary demand for CLC services, they may also make it harder for CLC clients to access services. The following examples are intended to be indicative and are not exhaustive. They are designed to prompt CLCs to consider how shifts in demand related to climate and a changing natural landscape may impact their services:

- (a) **Discrimination and human rights law** – climate change disproportionately impacts people with certain attributes who are protected under anti-discrimination laws in Queensland.

What a change in demand could look like: a broad scope of complaints could be raised about direct or indirect discrimination, for example, how people are treated in disaster management, including rights to be treated equally and have their concerns heard and addressed.

- (b) **Housing and tenancy law** – climate change will exacerbate housing insecurity and displacement,

particularly in low-income and marginalised communities which will likely lead to an increase in volume and complexity of claims. For example, it has been found that low-income families are often in housing or accommodation that is most vulnerable to heat stress (eg high density housing with limited access to cooling) and more likely to experience energy poverty.⁵⁷ In addition, in a recent analysis of electorates, Queensland made up five of the seven highest risk electorates in terms of properties that were exposed to the impacts of climate change.⁵⁸ Likewise, CLCs may need to consider how clients who are at-risk or experiencing family violence may be further displaced from emergency housing by the impacts of climate change.

What a change in demand could look like: disputes related to property damage, tenancy, and usage rights exacerbated by climate events, as well as support required to relocate and obtain emergency housing. Likewise, there may be increasingly complex applications for protection orders for those experiencing both domestic violence and displacement due to climate-related events.

- (c) **Insurance law** – related to tenancy issues is the uptick in home and contents insurance premiums becoming increasingly unaffordable – between July 2005 and June 2013, home and content insurance premiums in North Queensland increased by 80%, compared to 25% over the same period across the rest of Australia.⁵⁹ While many CLC clients would not be homeowners, many current homeowners may be pushed into poverty through the loss of homes and inability to recover through insurance (which may lead to an increase in CLC client demand). Insurance law problems can also arise for different types of cover, such as car insurance for vehicles impacted by storms and other extreme weather events.

What a change in demand could look like:

clients may need help navigating complex claims in relation to climate disasters and assistance to access government disaster relief funds and compensation programs.

- (d) **Employment law** – businesses will be impacted by changing trading conditions, which could lead to more unfair dismissal claims. Various workplace health and safety regulations will also be tested as conditions become more unworkable and air pollution increases.

What a change in demand could look like:

claims around job loss, workplace safety (including psychosocial safety), and rights to leave during and after climate disasters.

⁵⁷ C Cornell, N Gurrin, T Lea, *Climate change, housing and health*, 2020.

⁵⁸ Climate Valuation, *Uninsurable Nation: Australia's most climate-vulnerable places*, 2022.

⁵⁹ Queensland Government, *Climate Change Risk Management Tool for Queensland Households*, 2019.



- (e) **Health law** – climate change will negatively impact public health outcomes and access to critical social services, which may make it more difficult for CLC clients to access the services they need (including legal support) for ongoing health conditions. Queensland is one of the only states with a dedicated plan in relation to the intersection between health and climate change – the Human Health and Wellbeing Climate Change Adaption Plan.⁶⁰

What a change in demand could look like:

compensation claims made more complex by health conditions that are exacerbated by extreme weather conditions (eg extreme heat). CLC clients (particularly those in rural and regional areas) experiencing such health conditions may also find it harder to access essential services (including legal services).

- (f) **Migration law** – as sea levels rise and weather events become more extreme, there will be greater pressure exerted on Australia's migration system, leading to a potential increase of complex migration claims for CLC legal practitioners to navigate. The impact of climate migration is yet to really hit Australia, but the Australia-Tuvalu treaty (under which Australia will accept 280 Tuvaluans migrants per year)⁶¹ provides evidence that this is on the horizon.

What a change in demand could look like:

increasing amounts of claims from climate refugees and migrants.

In addition to increased volume and complexity of demand (coupled with service disruption), CLCs will need to consider how to manage associated psycho-social risks to staff who will be required to confront these issues on a daily basis.

To deal with changes in demand and increased risks to staff, learning from existing initiatives, such as the Federation of CLCs in Victoria and their Climate Justice Legal Project,⁶² can provide valuable insights.

This project focuses on the intersection of legal problems with the direct and indirect consequences of climate change, offering a model for integrating climate justice into legal services.

They have **four** overarching goals:

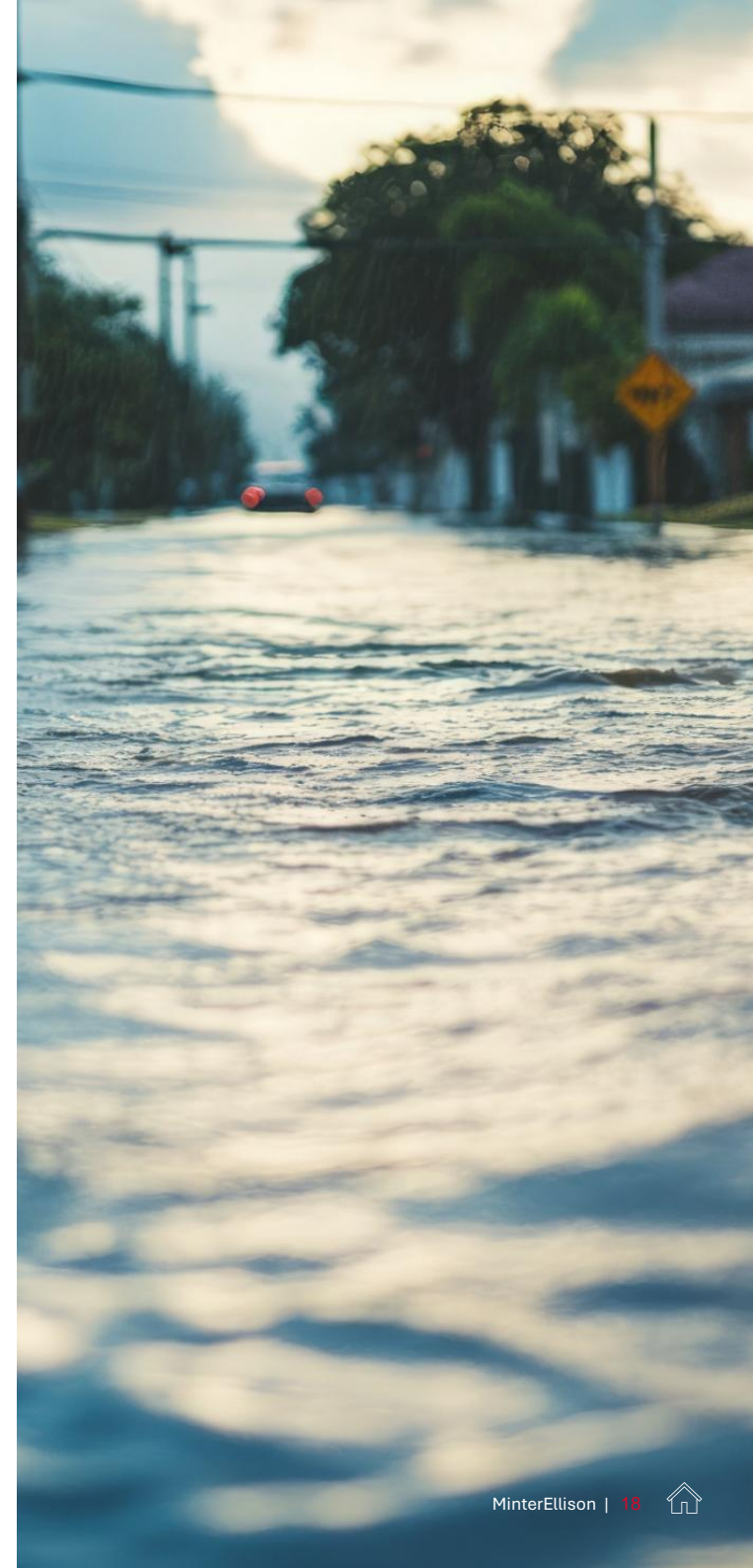
- 1 Advocate** > Addressing the drivers of inequality by supporting equitable and accessible climate solutions and highlighting the need to immediately reduce emissions.
- 2 Amplify** > Centring the needs, expertise and voices of those people disproportionately impacted by climate change.
- 3 Ability** > Building the capacity of CLCs to address legal needs arising both directly and indirectly as a consequence of climate change.
- 4 Adapt** > Embedding equitable adaption practices across the legal sector using evidence-based approaches.⁶³

⁶⁰ Queensland Government, [Human Health and Wellbeing Climate Change Adaption Plan](#), 2018.

⁶¹ UNSW, [Australia's offer of climate migration to Tuvalu residents is groundbreaking - and could be a lifeline across the Pacific](#), November 2023.

⁶² Federation of Community Legal Centres Vic, [Climate Justice Legal Project - Federation of Community Legal Centres \(fclc.org.au\)](#), 2024.

⁶³ Federation of Community Legal Centres Vic, [Climate Justice Legal Project - Federation of Community Legal Centres \(fclc.org.au\)](#), 2024.



7.2 CLC specific climate and nature-related opportunities

Due to capacity constraints, some CLCs may find it difficult to address climate and nature-related opportunities.

However, there is scope for CLCs to consider how their operations can be more cost-effective and sustainable, and to engage in much needed advocacy (given that CLCs will be among the first to identify changes in demand, new client cohorts, and emerging legal issues given frontline work with clients in need). Some of the opportunities identified below also act as risk mitigants, as well as bolstering client service delivery.

- (a) **Embrace technology** – develop and maintain robust online platforms for client consultations, document submissions, and virtual hearings. Ensure staff can work remotely with secure access to necessary resources and case management systems. Utilise cloud-based services for data storage and backup to ensure continuity during physical disruptions.
- (b) **Alternative access pathways and collaboration** – consider how clients in regional and remote areas can access CLC services when impacted by climate or nature-related risks. Strengthen partnerships with other legal aid organisations and community groups to provide referral pathways and shared resources. Increase outreach efforts to educate clients about how to access services remotely or through alternative means.

- (c) **Cost savings through sustainable practices** – implement environmentally sustainable practices within the CLC, such as reducing paper use, optimising energy efficiency, and minimising waste.
- (d) **Diversify advocacy** – Advocate for policies that address climate change and educate clients about their rights and responsibilities in the context of climate impacts.



8. Practical steps for climate risk governance

CLCs are already doing a lot with a little, and this Guide is not intended to provide additional governance burdens or regulatory requirements.

The first step in building climate resilience and adaptiveness is to make a plan regarding what you would like to achieve and by when, given your current capacity. Completing CLCQ's **Climate Resilience and Adaptive Capacity checklist** is a great way to begin understanding where you might like to direct your efforts and attention.

When assessing practical steps, CLCs need to consider what drives action and decision-making at the organisation. Risk management measures and sustainability initiatives are most effective when they are embedded in organisational strategy and processes, rather than being siloed. This integration likely won't happen overnight but hopefully it will evolve and improve over time as CLCs and their stakeholders build capacity in this area.

Measure emissions baseline then set realistic targets to reduce emissions (if possible)

Understand skills and knowledge gaps in board members, senior management and legal practitioners

Identify material and foreseeable climate and nature-related risks and the likely impacts for your CLC (on its finances, resources, people and clients)

Formulate risk mitigation measures

Understand and engage with stakeholder 'climate sentiment'

Consider climate opportunities (if there is capacity to do so)

Develop overarching strategy to manage risks and capitalise on opportunities (short term and long term)

Monitor targets set and strategies implemented to ensure your CLC is on track, and revise these goals as needed



Annexures



Annexure A: Useful Resources

CLIMATE GOVERNANCE RESOURCES

- [Climate Resilience and Adaptive Capacity Checklist](#)
- [Making environmental claims - A guide for business | December 2023 \(accc.gov.au\)](#)
- [Climate Governance Study – Risk and opportunity insights from Australian directors – Climate Governance Initiative Australia & AICD | December 2021](#)
- [Climate Governance Initiative – Climate Governance Hub](#)
- [Investor Group on Climate Change – What investors expect of company directors on climate risk | October 2021](#)
- [Climate Governance Initiative, World Economic Forum and Deloitte – The Chairperson's Insights into Climate Action: Highlights from interviews with chairpersons on boards | April 2022](#)
- [Pollination & Climate Governance Initiative Australia – Climate change and organisational strategy | February 2023](#)
- [World Economic Forum & PwC – How to Set Up Effective Climate Governance on Corporate Boards: Guiding Principles and Questions | January 2019](#)
- [Chapter Zero – Board Toolkit | July 2022](#)
- [AICD & MinterEllison – Climate risk governance guide | August 2021](#)

LEGAL RESOURCES

- [Law Society of NSW Climate Change Practitioner Guide](#)
- [Climate Justice Legal Project - Federation of Community Legal Centres \(fclc.org.au\)](#)
- [Australian Pro Bono Centre – Pro Bono Guide to the Climate Crisis | August 2020](#)

QUEENSLAND SPECIFIC RESOURCES

- [Queensland Climate Adaption Strategy](#)

CLIMATE JUSTICE RESOURCES

- [Climate Justice Field Guide and Toolkit, Federation of CLCs Victoria | March 2025](#)
- [Climate Council – First Nations Climate Justice Panel | June 2021](#)
- [The Global Risks Report | January 2023](#)
- [KPMG & Responsible Investment Association Australasia – Human Rights & Climate Change: A guide for institutional investors | December 2021](#)

NATURE GOVERNANCE RESOURCES

- [MinterEllison – Why and how boards should be prioritising nature-related risk | August 2023](#)
- [MinterEllison - Preparing your business for TNFD nature-related disclosure | September 2023](#)
- [Climate Governance Initiative & Commonwealth Climate and Law Initiative – Biodiversity as a material financial risk: what board directors need to know | March 2023](#)



