

Climate Change Bill 2023

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Western Australia

LEGISLATIVE ASSEMBLY

Climate Change Bill 2023

A Bill for

An Act —

- **to support the reduction of greenhouse gas emissions attributable to Western Australia; and**
- **to provide for Western Australia’s greenhouse gas emissions reduction targets; and**
- **to provide for an emissions reduction strategy, a climate adaptation strategy and sector adaptation plans; and**
- **to provide for annual reporting to the Parliament; and**
- **for related purposes.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Climate Change Act 2023*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. Purposes of Act

The purposes of this Act are as follows —

- (a) to ensure that Western Australia contributes to global efforts to reduce greenhouse gas emissions in alignment with the Paris Agreement;
- (b) to provide for Western Australia’s emissions reduction targets;
- (c) to support the reduction of net emissions attributable to Western Australia consistently with those targets and the mitigation hierarchy;
- (d) to provide a legislative framework that —
 - (i) promotes transparency and accountability; and
 - (ii) provides certainty for business; and
 - (iii) encourages investment in the industries, infrastructure, technologies and skills required for the transition to net zero emissions; and
 - (iv) supports an orderly transition to net zero emissions;
- (e) to ensure that Western Australia takes steps to identify and manage the impacts of climate change on Western Australia’s communities, the environment and the economy;

- 1 (f) to ensure that the Parliament and the community of
2 Western Australia are informed about Western
3 Australia's progress in achieving its emissions reduction
4 targets and in responding to the impacts of climate
5 change.

6 **4. Terms used**

7 (1) In this Act —

8 *eligible offset* means —

- 9 (a) for the purpose of determining net emissions attributable
10 to Western Australia — an offset prescribed for that
11 purpose; and
12 (b) for the purpose of determining net emissions attributable
13 to the State Government — an offset prescribed for that
14 purpose;

15 *emissions* means emissions of greenhouse gases into the
16 atmosphere;

17 *greenhouse gas* has the meaning given in the *National*
18 *Greenhouse and Energy Reporting Act 2007* (Commonwealth)
19 section 7A;

20 *GTE* means a body corporate established under 1 of the
21 following —

- 22 (a) the *Electricity Corporations Act 2005* section 4;
23 (b) the *Port Authorities Act 1999* section 4;
24 (c) the *Water Corporations Act 1995* section 4;
25 (d) the *Western Australian Land Authority Act 1992*
26 section 5;

27 *mitigation hierarchy* means the preferences for —

- 28 (a) reducing emissions over relying on removals; and
29 (b) offsetting emissions only as a last resort;

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1 **Paris Agreement** means the Paris Agreement, done at Paris on
2 12 December 2015, as amended and in force for Australia from
3 time to time;

4 Note for this definition:

5 The Agreement is in Australian Treaty Series 2016 No. 24 ([2016]
6 ATS 24) and could in 2023 be viewed in the Australian Treaties Library
7 on the AustLII website <<http://www.austlii.edu.au>>.

8 **prescribed** means prescribed by regulations made under this
9 Act;

10 **publicly available**, in relation to making a strategy, plan or
11 report publicly available, includes it being publicly available on
12 a website of the department of the Public Service principally
13 assisting the Minister in the administration of this Act;

14 **removals** means removals of greenhouse gases from the
15 atmosphere;

16 **State entity** means a body, whether incorporated or not, that is
17 established or continued for a public purpose under a written
18 law;

19 **State Government** means —

- 20 (a) each department of the Public Service; and
21 (b) each GTE; and
22 (c) each State entity that is declared by the Minister, by
23 notice published in the *Gazette*, to be a part of the State
24 Government for the purposes of this Act;

25 **Western Australia's emissions reduction targets** means the
26 emissions reduction targets under sections 7 to 10;

27 **year** has a meaning affected by subsection (2).

28 (2) A reference in this Act to a year is a reference to a financial
29 year, and a reference to a particular year is a reference to the
30 financial year ending in that year.

31 Example for this subsection:

32 A reference to 2035 is a reference to the financial year ending on
33 30 June 2035.

1 **5. Act binds Crown**

2 This Act binds the Crown in right of Western Australia and, so
3 far as the legislative power of the Parliament permits, the Crown
4 in all its other capacities.

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Part 2 — Minister's functions

6. Minister's functions

The functions of the Minister are, in addition to the other functions conferred on the Minister by this Act, as follows —

- (a) to promote action to meet Western Australia's emissions reduction targets;
- (b) to develop, adopt and promote policies, programs and measures that support the reduction of net emissions attributable to Western Australia consistently with Western Australia's emissions reduction targets and the mitigation hierarchy;
- (c) to assess the impacts of climate change on Western Australia;
- (d) to develop, adopt and promote policies, programs and measures that address, and support adaptation to, the impacts of climate change;
- (e) to regularly review issues relating to mitigation of, and adaptation to the impacts of, climate change;
- (f) to promote Western Australia's involvement in State, national and international climate change forums;
- (g) any prescribed function.

- 1 (c) the extent to which eligible offsets can be taken into
2 account in determining net emissions attributable to
3 Western Australia for the purposes of this Act.
- 4 (4) The Minister must, in setting the extent to which eligible offsets
5 can be taken into account under subsection (3)(c), take into
6 account the mitigation hierarchy.
- 7 (5) An interim target may be expressed as a range.
- 8 (6) The Minister must, in setting an interim target, be satisfied that
9 the target represents a progression beyond any previous interim
10 target.
- 11 (7) The Minister must, as soon as practicable after setting an
12 interim target, ensure that a copy of the notice by which the
13 target is set is laid before each House of Parliament.
- 14 **9. Amending interim targets**
- 15 (1) The Minister may, by notice published in the *Gazette*, amend an
16 interim target if satisfied that there are exceptional
17 circumstances that justify the amendment.
- 18 (2) If the Minister amends an interim target, the Minister must, as
19 soon as practicable, ensure that a copy of the notice by which
20 the target is amended, together with a statement of reasons as to
21 why the amendment has been made, are laid before each House
22 of Parliament.
- 23 **10. Targets specifically for the State Government**
- 24 (1) The State Government's long-term emissions reduction target is
25 to reduce net emissions attributable to the State Government to
26 zero by 2050.
- 27 (2) The State Government's interim emissions reduction targets are
28 to reduce net emissions attributable to the State Government to
29 the interim Government targets set by the Minister for each of
30 2030, 2035, 2040, 2045 and 2050 (the *target years*).

- 1 (3) The Minister must, by notice published in the *Gazette*, set an
2 interim Government target —
- 3 (a) for 2030 — as soon as practicable; and
- 4 (b) for any other target year — as soon as practicable after
5 the Commonwealth communicates Australia's nationally
6 determined contribution for the year in accordance with
7 Article 4.9 of the Paris Agreement.
- 8 (4) The interim Government target for a target year must include —
- 9 (a) other than for 2050 — the extent (as a percentage) to
10 which net emissions attributable to the State
11 Government for the year are to be reduced in relation to
12 net emissions attributable to the State Government
13 for 2020; and
- 14 (b) other than for 2030 — an emissions budget comprising
15 the total net emissions attributable to the State
16 Government for the period covered by the year and the
17 4 preceding years; and
- 18 (c) the extent to which eligible offsets can be taken into
19 account in determining net emissions attributable to the
20 State Government for the purposes of this Act.
- 21 (5) The Minister must, in setting the extent to which eligible offsets
22 can be taken into account under subsection (4)(c), take into
23 account the mitigation hierarchy.
- 24 (6) Section 8(5) to (7) and section 9 apply for the purposes of this
25 section as if references to an interim target were references to an
26 interim Government target.

27 **Division 2 — Determining net emissions**

28 **11. Determining net emissions attributable to Western Australia**
29 **and to the State Government**

- 30 (1) The Minister must, for the purposes of this Act, determine —
31 (a) net emissions attributable to Western Australia; and

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Part 3 Western Australia's emissions reduction targets

Division 2 Determining net emissions

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- 1 (b) net emissions attributable to the State Government.
- 2 (2) In determining net emissions attributable to Western Australia
3 for a period, the Minister —
- 4 (a) must determine the balance of emissions and removals
5 attributable to Western Australia during the period; and
- 6 (b) may take into account eligible offsets, to the extent
7 consistent with the emissions reduction target for
8 Western Australia for the period.
- 9 (3) In determining net emissions attributable to the State
10 Government for a period, the Minister —
- 11 (a) must determine the emissions attributable to the State
12 Government during the period; and
- 13 (b) may take into account eligible offsets, to the extent
14 consistent with the emissions reduction target for the
15 State Government for the period.

1 **Part 4 — Emissions reduction strategy**

2 **12. Minister to prepare emissions reduction strategy**

- 3 (1) The Minister must prepare an emissions reduction strategy
4 before the 3rd anniversary of the day on which this Act comes
5 into operation, and may amend or replace it.
- 6 (2) The Minister must, when preparing, amending or replacing the
7 strategy, be satisfied that it will —
- 8 (a) enable Western Australia’s emissions reduction targets
9 to be met; and
- 10 (b) support Western Australia’s transition to net zero
11 emissions.
- 12 (3) The Minister must, as soon as practicable after preparing,
13 amending or replacing the strategy, ensure that it is laid before
14 each House of Parliament.
- 15 (4) The Minister need not comply with subsection (3) in relation to
16 minor or technical amendments or corrections.
- 17 (5) The Minister must ensure that the strategy is publicly available.

18 **13. Purpose and content**

- 19 (1) The purposes of the emissions reduction strategy are to enable
20 Western Australia’s emissions reduction targets to be met and to
21 support the transition to net zero emissions and, as part of
22 that —
- 23 (a) to provide a holistic and strategic response to emissions
24 reduction for Western Australia; and
- 25 (b) to identify feasible emissions reduction strategies and
26 mitigation options for Western Australia; and
- 27 (c) to identify implementation pathways for those strategies
28 and options.

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- 1 (2) The Minister must, in preparing, amending or replacing the
2 strategy —
- 3 (a) consider the policies, programs and measures necessary
4 to achieve the purposes of the strategy; and
- 5 (b) consider the costs, benefits, timing and sequencing of
6 those policies, programs and measures; and
- 7 (c) consider resource allocation for the implementation of
8 those policies, programs and measures; and
- 9 (d) take into account the mitigation hierarchy; and
- 10 (e) aim to cover all major sources of emissions attributable
11 to Western Australia.
- 12 (3) Without limiting subsection (1), the strategy must set out or
13 include the following —
- 14 (a) policies, programs and measures that support the
15 reduction of net emissions attributable to Western
16 Australia;
- 17 (b) responsibilities and time frames for implementing those
18 policies, programs and measures, and related reporting
19 requirements.
- 20 (4) The strategy may also include strategies for reducing emissions
21 in particular sectors of the Western Australian economy.

22 **14. Review**

- 23 (1) The Minister must review the operation and effectiveness of the
24 emissions reduction strategy within 5 years of the strategy first
25 becoming publicly available and then at intervals of not more
26 than 5 years.
- 27 (2) After completing a review, the Minister must decide —
- 28 (a) whether to amend or replace the strategy; or
- 29 (b) that the strategy need not be amended or replaced.

- 1 (3) If the Minister decides that the strategy need not be amended or
2 replaced, the Minister must, as soon as practicable, ensure that
3 notice of that decision is laid before each House of Parliament.

4 **15. Public consultation**

- 5 (1) When preparing or reviewing the emissions reduction strategy,
6 the Minister must —
7 (a) consult publicly; and
8 (b) have regard to a summary of submissions received as
9 part of the consultation.
- 10 (2) The summary must include written submissions received as part
11 of the consultation.

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Part 5 — Climate adaptation strategy

16. Minister to prepare climate adaptation strategy

- (1) The Minister must prepare a climate adaptation strategy before the 5th anniversary of the day on which this Act comes into operation, and may amend or replace it.
- (2) The Minister must, as soon as practicable after preparing, amending or replacing the strategy, ensure that it is laid before each House of Parliament.
- (3) The Minister need not comply with subsection (2) in relation to minor or technical amendments or corrections.
- (4) The Minister must ensure that the strategy is publicly available.

17. Purpose and content

- (1) The purposes of the climate adaptation strategy are to assist Western Australia's communities, environment and economy to adapt to the impacts of climate change and, as part of that —
 - (a) to provide a holistic and strategic response to the impacts of climate change; and
 - (b) to identify feasible strategies and options to support adapting to, and reducing vulnerability to, climate change; and
 - (c) to identify implementation pathways for those strategies and options; and
 - (d) to provide a context for the sector adaptation plans.
- (2) The Minister must, in preparing, amending or replacing the strategy —
 - (a) consider the policies, programs and measures necessary to achieve the purposes of the strategy; and
 - (b) consider the costs, benefits, timing and sequencing of those policies, programs and measures; and

- 1 (c) consider resource allocation for the implementation of
2 those policies, programs and measures; and
- 3 (d) consider the distribution of the effects of climate change
4 across Western Australia's communities and regions.
- 5 (3) Without limiting subsection (1), the strategy must set out or
6 include the following —
- 7 (a) a summary of the implications of climate change for
8 Western Australia's communities, environment and
9 economy;
- 10 (b) policies, programs and measures that support the
11 purposes of the strategy;
- 12 (c) responsibilities and time frames for implementing those
13 policies, programs and measures, and related reporting
14 requirements;
- 15 (d) key performance indicators to enable monitoring and
16 evaluation of the effectiveness of the strategy.

17 **18. Review**

- 18 (1) The Minister must review the operation and effectiveness of the
19 climate adaptation strategy within 5 years of the strategy first
20 becoming publicly available and then at intervals of not more
21 than 5 years.
- 22 (2) After completing a review, the Minister must decide —
- 23 (a) whether to amend or replace the strategy; or
24 (b) that the strategy need not be amended or replaced.
- 25 (3) If the Minister decides that the strategy need not be amended or
26 replaced, the Minister must, as soon as practicable, ensure that
27 notice of that decision is laid before each House of Parliament.

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1 **19. Public consultation**

2 (1) When preparing or reviewing the climate adaptation strategy,
3 the Minister must —

4 (a) consult publicly; and

5 (b) have regard to a summary of submissions received as
6 part of the consultation.

7 (2) The summary must include written submissions received as part
8 of the consultation.

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Part 6 — Sector adaptation plans

20. Purpose and content

- (1) The purposes of a sector adaptation plan are, in relation to a sector of the Western Australian economy —
 - (a) to increase the awareness of participants in the sector of the impacts of climate change on the sector; and
 - (b) to increase the capacity of participants in the sector to manage those impacts; and
 - (c) to facilitate collaboration between government, private and community participants in the sector to identify and implement policies, programs and measures to enhance the sector’s capacity to adapt to the impacts of climate change.

- (2) Without limiting subsection (1), a sector adaptation plan must set out or include the following —
 - (a) the potential impacts of climate change on the sector;
 - (b) the likelihood, severity and potential costs of those impacts;
 - (c) policies, programs and measures that support adapting to or managing those impacts;
 - (d) responsibilities and time frames for implementing those policies, programs and measures, and related reporting requirements;
 - (e) key performance indicators to enable monitoring and evaluation of the effectiveness of the plan.

21. Responsibility for sector adaptation plans

- (1) The Minister may nominate a Minister as the Minister responsible for the sector adaptation plan for a sector of the Western Australian economy.

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- 1 (2) Without limiting subsection (1), the Minister must ensure that
2 there is a Minister nominated for each of the following
3 sectors —
- 4 (a) the health and human services sector;
 - 5 (b) the emergency management sector;
 - 6 (c) the primary production sector;
 - 7 (d) the infrastructure and built environment sector;
 - 8 (e) the small and medium enterprise sector;
 - 9 (f) the natural environment sector;
 - 10 (g) the water security sector;
 - 11 (h) any prescribed sector.
- 12 (3) The Minister must consult with the Premier before nominating a
13 Minister under this section.
- 14 (4) A nomination must be in writing.
- 15 (5) The Minister may nominate 2 or more Ministers as the
16 Ministers responsible for a sector adaptation plan and, if the
17 Minister does so, the provisions of this Part have effect
18 accordingly.
- 19 **22. Responsible Minister to prepare sector adaptation plan**
- 20 (1) The Minister responsible for the sector adaptation plan for a
21 sector (the *responsible Minister*) must prepare a sector
22 adaptation plan for the sector as soon as practicable, and may
23 amend or replace it.
- 24 (2) The responsible Minister must, in preparing, amending or
25 replacing the plan —
- 26 (a) consider the policies, programs and measures necessary
27 to achieve the purposes of the plan; and
 - 28 (b) consider the costs, benefits, timing and sequencing of
29 those policies, programs and measures; and

- 1 (c) consider resource allocation for the implementation of
2 those policies, programs and measures; and
- 3 (d) consider the distribution of the effects of climate change
4 across Western Australia's communities and regions.
- 5 (3) The responsible Minister must, as soon as practicable after
6 preparing, amending or replacing the plan, ensure that it is laid
7 before each House of Parliament.
- 8 (4) The responsible Minister need not comply with subsection (3) in
9 relation to minor or technical amendments or corrections.
- 10 (5) The responsible Minister must ensure that the plan is publicly
11 available.

12 **23. Review**

- 13 (1) The Minister responsible for the sector adaptation plan for a
14 sector (the *responsible Minister*) must review the operation and
15 effectiveness of the plan within 5 years of the plan first
16 becoming publicly available and then at intervals of not more
17 than 5 years.
- 18 (2) After completing a review, the responsible Minister must
19 decide —
- 20 (a) whether to amend or replace the plan; or
21 (b) that the plan need not be amended or replaced.
- 22 (3) If the responsible Minister decides that the plan need not be
23 amended or replaced, the responsible Minister must, as soon as
24 practicable, ensure that notice of that decision is laid before
25 each House of Parliament.

26 **24. Public consultation**

- 27 (1) When preparing or reviewing a sector adaptation plan for a
28 sector, the Minister responsible for the plan must —
- 29 (a) consult publicly; and

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- 1 (b) have regard to a summary of submissions received as
2 part of the consultation.
- 3 (2) The summary must include written submissions received as part
4 of the consultation.

1 **Part 7 — Annual climate change report**

2 **25. Annual climate change report**

3 (1) As soon as practicable after the end of each year that ends after
4 31 December 2024, and in any case within 6 months after the
5 end of the year, the Minister must —

6 (a) prepare an annual climate change report; and

7 (b) ensure that it is publicly available; and

8 (c) ensure that it is laid before each House of Parliament.

9 (2) The purpose of an annual climate change report is to inform the
10 Parliament and the community of Western Australia about
11 progress in achieving Western Australia’s emissions reduction
12 targets.

13 (3) Without limiting subsection (2), the report must set out or
14 include the following —

15 (a) the Minister’s determination of the net emissions
16 attributable to Western Australia, and to the State
17 Government, for the most recent year for which data is
18 available to make the determination;

19 (b) the methodology by which the Minister determined the
20 net emissions referred to in paragraph (a), including
21 which eligible offsets were taken into account in making
22 the determinations and the extent of their contribution;

23 (c) a report on progress in implementing the emissions
24 reduction strategy;

25 (d) a report on any other matter the Minister considers
26 appropriate.

27 (4) The Minister may, for the purposes of subsection (3)(a), set out
28 in a report a preliminary determination for a year and revise that
29 determination in a subsequent report.

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Part 8 — Miscellaneous

26. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

27. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
 - (a) as soon as practicable after the 5th anniversary of the day on which this section comes into operation; and
 - (b) after that, at intervals of not more than 5 years.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary or the expiry of the period of 5 years, as is relevant.



Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
eligible offset	4(1)
emissions.....	4(1)
greenhouse gas	4(1)
GTE.....	4(1)
mitigation hierarchy	4(1)
Paris Agreement.....	4(1)
prescribed.....	4(1)
publicly available	4(1)
removals.....	4(1)
responsible Minister.....	22(1), 23(1)
State entity	4(1)
State Government	4(1)
target years.....	8(1), 10(2)
Western Australia's emissions reduction targets	4(1)
year	4(1)