



Tuesday 17 October 2023

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Legislation and National Policy Branch
Department of Water and Environmental Regulation
Joondalup DC, WA, 6919

Sent via email: climatebill@dwer.wa.gov.au

To whom it concerns,

CLIMATE CHANGE BILL 2023 – EXPLANATORY PAPER

The Chamber of Minerals and Energy of Western Australia (CME) is the peak representative body for the resources sector in Western Australia. CME is funded by member companies responsible for 87 per cent of the state's mineral and energy workforce employment,¹ ranging from mining (mineral and petroleum commodities) to manufacturing (alumina, basic inorganic chemicals and explosives) and supporting services. The value of royalties received from the sector totalled \$12.1 billion in 2021-22, accounting for 29 per cent of general government revenue.² Amid heightened commodity demand, royalties and stronger tax collections from the sector are expected to underpin government fiscal capacity in 2022-23.

CME welcomes the opportunity to provide feedback to the WA Department of Water and Environmental Regulation (DWER) consultation on the proposed Climate Change Bill 2023 (the Bill) on behalf of its members. CME thanks DWER for arranging and hosting a briefing session for the CME on 4 October 2023.

CME recognises that climate change is a global challenge requiring coordinated action at international, national and sub-national levels. CME supports the Paris Agreement and its goal of limiting global warming to well below 2, preferably to 1.5 degrees Celsius, by reducing emissions to net zero as soon as possible and no later than 2050. Australia, as a signatory to the Paris Agreement, must actively contribute to this goal and fulfilment of its Nationally Determined Contributions (NDCs).³

Nevertheless, new policies and legislation should be cognisant of WA's economic composition and unique role in supporting decarbonisation and the energy transition both in Australia and globally. The WA economy is very reliant on resource sector projects which means the WA economy is more emissions intensive than the economies of other states and territories. Additionally, Western Australian industries and projects support decarbonisation and the energy transition both in Australia and beyond through our endowment and world leading capabilities in the extraction of natural resources, from gas to iron ore through to critical and battery minerals. Any proposal taken by the WA Government to regulate emissions must take this into account, and strong industry engagement should be undertaken before changes are made to ensure that there are no unintended consequences.

CME understands that the Climate Change Bill is a response to strong public support for climate-related legislation which was expressed through feedback on the *Climate Change in Western Australia – Issues Paper* (the Issues Paper) in 2019.⁴ However, since the Issues Paper was published there have been significant reforms to the federal climate change legislative framework, including the enactment of the Climate Change Act 2022 (Cwth) (the Act) that sets Australia's emissions reduction targets, and strengthening of the

1 Government of Western Australia, [2021-22 Economic indicators resources data](#), average number of individuals onsite under state legislation, Department of Mines, Industry Regulation and Safety, 5 October 2022.

2 Includes Commonwealth royalties from the North West Shelf project. Government of Western Australia, [2021-22 Annual report on State finances](#), Department of Treasury, 28 September 2022, pp. 8.

3 CME, [Climate Policy](#).

4 [Department of Water and Environmental regulation, November 2020, Climate change in Western Australia – Issues paper.](#)

Safeguard Mechanism (SGM) to reduce emissions from the industrial sector. Further changes to the federal regulatory framework and emission targets are foreshadowed, with the Climate Change Authority (CCA) requested to prepare advice on Australia's 2035 targets and to revise Australia's Net Zero Plan, including a commitment to develop sectoral decarbonisation plans.⁵ The Australian Government is also reviewing emission reporting frameworks, with CCA coordinating the statutory review of the National Greenhouse and Energy Reporting (NGER) Act and Federal Treasury consulting on the design and implementation of mandatory climate related financial disclosure regime which will apply to many resource sector projects.

CME contends that public calls for WA legislation to manage climate action and reduce emissions, including public support provided in response to the 2019 Issues Paper, have been answered by these Commonwealth reforms. Further, while we appreciate the intent of the legislation to enshrine in law the WA Government's current policy to achieve net zero by 2050 and note this aligns with industry's own net zero commitments, we argue that Federal legislation and policy are appropriate and sufficient to ensure progress towards these national objectives. **CME recommends that DWER reassess the need for the Bill and clearly articulate the legislative gap the Bill will address to avoid duplication for entities regulated under the federal framework.** This submission reflects the primary and overarching concern of CME members regarding the risk of regulatory duplication which could result from the introduction of this Bill. Specific concerns are highlighted below.

1. Regulatory duplication between state and federal jurisdictions should be avoided

The WA Government's Streamline WA initiative has an objective to "continually improve regulation and regulatory practice"⁶ in recognition that ineffective regulation increases costs and complexity of doing business. Regulatory duplication across state and federal jurisdictions is an example of inefficient regulation. Duplicated regulation can introduce unintended risks to businesses, including increased costs of compliance via additional reporting requirements or approvals processes, or non-compliance due to contradiction, confusion, or inconsistency in requirements. In the case of industry greenhouse gas (GHG) emissions, state and federal regulations apply to the same emissions – that is, additional regulations on GHG emissions introduced at the state level will apply to emissions that are already regulated by the Australian Government. The parallels between the WA Climate Change Bill and the federal Climate Change Act are clear, in both structure and content. CME has identified a number of ways that components of the Bill may be seen to duplicate existing federal measures, outlined below:

- Both the Climate Change Bill and the Climate Change Act enshrine a net-zero emissions by 2050 target.
- The Bill will require interim targets to be set at five-year intervals from 2030 onwards. CME understands that these targets will be informed by Australia's NDCs. The Act requires that the Climate Change Authority (CCA) advise the Minister for Climate Change on the setting of Australia's NDCs at least every five years.
- Both the Bill and the Act require the respective Minister for Climate Change to make an annual statement to Parliament on progress towards achieving emissions reduction targets, and the effectiveness of policies that drive climate action.
- Both the Bill and the Act aim to improve accountability of the government on climate matters.
- The Bill will require that the Minister for Climate Change prepare an emissions reduction strategy within three years. Via DWER's targeted consultation, CME understands this strategy will be informed by the anticipated Sectoral Emissions Reduction Strategies (SERS) being developed by various state departments. The Act has triggered a revision of Australia's Net Zero Plan, including a commitment to develop sectoral decarbonisation plans.

⁵ Hon, Chris Bowen MP, [Address to Clean Energy Council](#), 18 July 2023.

⁶ [Streamline WA](#) accessed 9 October 2023

It's important to recognise that the Western Australian mining and resources sectors have been assigned a substantial role in meeting Australia's 2030 and 2050 emissions reduction goals through the SGM. Facilities covered by the SGM must reduce emissions by 4.9% annually, with an absolute cap of 1,233 million tCO_{2-e} by 2030. Western Australia bears a disproportionate share of this abatement task, with covered emissions in the state exceeding those of any other state.⁷ In addition, data has shown that mining and resources sector companies are responsible for around 50% of the WA's total emissions.⁸ **Given WA's mining and resources sector represents a significant share of the state's emissions and is already regulated federally to reduce emissions in line with Australia's national targets, any additional requirements at a state level risk duplicating and adding further complexity to an already significant challenge and imperative.**

CME's members have also voiced uncertainty about how the Bill will interact with federal requirements, and how this may impact business obligations, given it does not specifically constrain requirements to Government. Specific areas of concern include:

- Misalignment between WA 5-year emissions budgets and the 10-year emissions cap to 2030 created under the SGM.
- Potential contradiction between WA policies on the use of offsets, and mandatory use of offsets for compliance under SGM.
- Existing duplication for some members between Ministerial conditions on approvals and the SGM.

CME recommends that DWER conduct a detailed review of federal climate legislation to identify components of the Bill that are sufficiently regulated federally to remove regulatory duplication. CME also recommends that DWER clearly articulate how the Bill, if passed, will interact with other legislative instruments and regulations federally to ensure that duplicative reporting and target setting obligations are not placed on business. This should include working with the Australian Government to utilise and adapt (where necessary) national target-setting and data collection for the WA context, to avoid introducing duplicative processes.

2. Implications on the private sector should be considered

CME understands that the Bill is 'framework legislation' that is intended to place direct obligations on the WA Government, rather than on private corporations and entities. While the Bill itself does not outline the specific methods for achieving emissions reduction targets, it is evident that a collaborative effort involving both the public and private sectors will be required. Consequently, it is anticipated that the private sector will be expected to input to the development and implementation of the State's emissions reduction plans and strategies, despite there being no direct obligations on the private sector within the Bill. Specifically, the Bill should not impose the following additional obligations on industry that are already regulated at a federal level, or regulated by markets:

- The setting of emissions reduction targets in addition to existing targets set by businesses and compulsory reduction via the SGM.
- The disclosure of decarbonisation plans or forecasts in addition to disclosures that will be required under the proposed Federal climate related financial disclosure regime.
- The reporting of GHG emissions in addition to existing reporting arrangements via the NGER scheme.

CME recommends that DWER review and assess the prospective policies and strategies that may be developed in response to the Bill, giving special attention to potential impacts and obligations on the mining and resources sectors. This review should be conducted ahead of the Bill being tabled, and incorporate the SERS that are expected to be released by the end of the calendar year.

⁷ 2021-22 Safeguard facility data, accessed via the [Clean Energy Regulator](#) on 13/10/23

⁸ Department of Mines, Industry Regulation, and Safety, [Western Australian Minerals sector greenhouse gas emissions and energy use](#), September 2022.

3. Conclusion

In conclusion, CME recommends that DWER review and clearly articulate more detailed information about the Bill, specifically an assessment of the perceived need and public support of the Bill in light of the climate-related reforms of the Albanese government, a review of existing federal climate legislation to identify and avoid duplicative regulation, and a consideration of potential impacts that may be felt by the WA mining and resources sector as a result of the Bill. These recommendations aim to ensure that future climate legislation, including the Bill, is fit-for-purpose and avoids unintended consequences on industry.

Should you have questions regarding this letter, please contact Adrienne LaBombard, Director of Policy and Advocacy, on 0400 912 525 or at A.LaBombard@cmewa.com.

Yours sincerely,



Rebecca Tomkinson
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