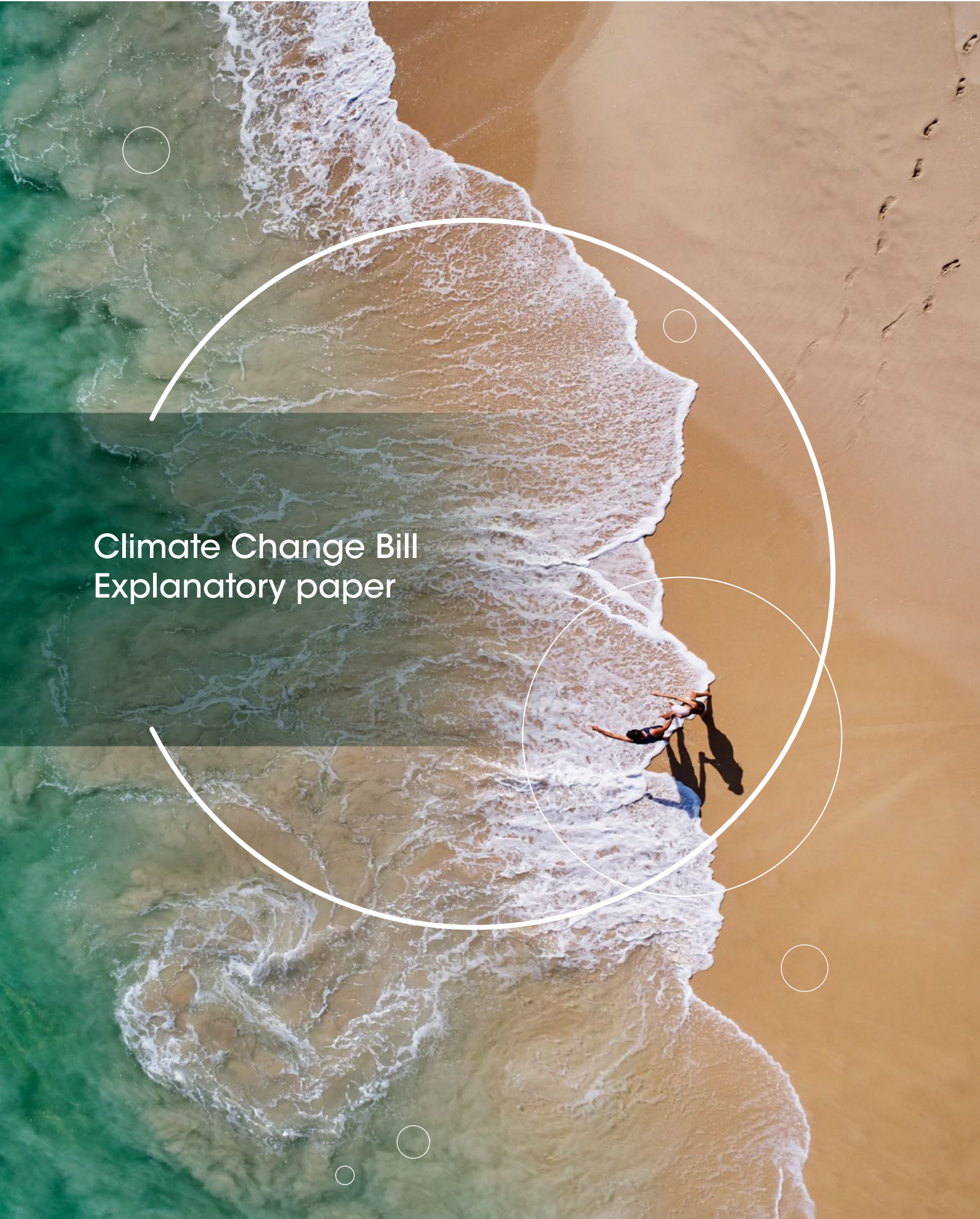




Climate Change Bill Explanatory paper



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1 Introduction

The Government of Western Australia has committed to introducing climate change legislation to enhance accountability, provide certainty for businesses, and attract the investment required for the transition to net zero greenhouse gas emissions.

The Climate Change Bill is focused on State Government accountability in policy development and reporting, and target-setting – it does not create any additional regulation or obligations for business, industry, project proponents, local government, or households.

The Bill will enshrine the state’s long-term target of net zero emissions by 2050, provide statutory requirements to develop policies to reduce emissions, set interim emission reduction targets, and enhance climate resilience. The legislation will also require the Minister for Climate Action to report annually to the Western Australian Parliament on the state’s net emissions and progress against the emission reduction targets.

Climate change legislation has been enacted by the Australian Government and other state government jurisdictions.

The Western Australian community strongly supports legislative backing for the State Government’s response to climate change. Almost 90 per cent of submissions to the [Climate Change in Western Australia – Issues Paper](#) in 2019 called for the introduction of climate change legislation to embed long-term targets and manage risks to the economy and community.

1.1 Background

The Paris Agreement established under the United Nations Framework Convention on Climate Change sets the goal of limiting global temperatures to well below 2 °C above pre-industrial levels.¹ Australia ratified the Paris Agreement on 9 November 2016.

Recent reports from the Intergovernmental Panel on Climate Change (IPCC) have reinforced the threat of climate change and the imperative for action to decarbonise the global economy and adapt to the unavoidable impacts of climate change.

The Australian Government has committed to achieving net zero emissions by 2050 and to reducing national greenhouse gas emissions by 43 per cent below 2005 levels by 2030.

In 2019, the State Government set an economy-wide target of net zero emissions by 2050 and committed to working with all sectors of the economy to achieve this goal. The State Government also set a target for reducing emissions from State Government operations of 80 per cent below 2020 levels by 2030.

¹ Article 2 of the Paris Agreement.

Decarbonisation and adaptation require investments with long lead times. Businesses and households will need to be assured that policies will remain stable over many years to make the necessary investments in line with state climate change objectives.

1.2 Policy drivers

Western Australia is already experiencing the impacts of climate change, including more frequent and severe droughts, heatwaves, high-risk bushfire weather, extreme rainfall events and rising sea levels.

Taking action to reduce greenhouse gas emissions is in Western Australia's interest and will ensure our state is contributing to national and global mitigation efforts, and our industries and exports remain competitive in a decarbonised global economy.

The [Western Australian Climate Policy](#), released in November 2020, outlines State Government actions to reduce emissions and address climate risk.

The State Government released the [Western Australian Climate Adaptation Strategy](#) in July 2023 to support a more comprehensive long-term approach to climate risk, resilience, and adaptation.

The State Government is also developing [Sectoral Emissions Reduction Strategies](#) (SERS) to provide robust and credible emissions reduction pathways aligned to its target of net zero emissions by 2050. SERS will be finalised for release in December 2023.

While these initiatives are significant milestones in the State Government's response to climate change, the IPCC has emphasised the importance of climate legislation in signalling the direction of travel, providing certainty, and attracting international finance. Predictable government policies are fundamental to providing confidence to investors and business.

Framework climate legislation for Western Australia, setting out processes, targets, and statutory requirements to guide State Government action on climate change mitigation and adaptation, will ensure the state's commitment to climate action is enduring, convincing and credible.

2 Climate Change Bill

2.1 How to use this explanatory paper

The paper is organised to focus on the key themes of the Climate Change Bill. It explains the intent and operation of the Bill and highlights areas that are of particular interest to stakeholders.

The explanatory paper generally follows the same structure as the Bill.

2.2 What the Bill will do

The Bill will:

- establish a target of net zero emissions by 2050
- require the setting of interim targets
- require the development of emission reduction strategies
- require the development of climate adaptation strategies
- require the development of sector adaptation plans
- require annual reporting to Parliament on climate change matters.

Further information on each of these matters is set out in chapter 3 of this paper.

2.3 Key features of the Bill

Emission reduction targets

The Bill will legislate the target of net zero emissions by 2050. It will also require the setting of interim targets for Western Australia for 2035, 2040 and 2045.

Interim targets will not be set out in the Act but will be required to be set by notice as soon as practicable after national emissions targets are set by the Australian Government under Article 4.9 of the Paris Agreement. The targets will be set as both point targets and five-yearly emissions budgets. A point target does not need to be set for 2050 as that target will be in the Bill, but an emissions budget must be set for the five years to 2050.

The use of both point targets and emissions budgets is consistent with Australia's current emissions reduction target under the Paris Agreement. An advantage of emissions budgets is that they ensure that every year in the target period counts, rather than just focusing on emissions in a single target year.

Greenhouse gas emissions are reported on a financial year basis. For that reason, the Bill provides that, references to a year are references to a financial year, and a reference to a particular year is a reference to the financial year ending in that year. The periods of point targets and emissions budgets are described in the following table.

Table 1 Target periods

Target year	Point target (1 yr)	Emissions budget (5 yrs)
2035	1 July 2034 – 30 June 2035	1 July 2030 – 30 June 2035
2040	1 July 2039 – 30 June 2040	1 July 2035 – 30 June 2040
2045	1 July 2044 – 30 June 2045	1 July 2040 – 30 June 2045
2050	1 July 2049 – 30 June 2050	1 July 2045 – 30 June 2050

The Minister must be satisfied that each interim target constitutes a progression beyond any previous target.

The legislation creates a similar target-setting framework for State Government emissions with the exception that a 2030 point target for the State Government must be set as soon as practicable after the Act comes into operation.

Determination of net emissions

The Bill requires the Minister to determine net emissions for Western Australia and explain how the determination has been made as part of the annual report to Parliament.

Consistent with the approach to net emissions by the Australian Government under the [State and Territory Greenhouse Gas Inventories](#), Western Australia's net emissions will be the balance of emissions and removals for Western Australia. As discussed further below, in some circumstances offsets may be taken into account when determining net emissions for Western Australia.

The Minister will also be required to determine net emissions for the State Government. Net emissions for the State Government will be aggregate emissions from its activities. As discussed further below, in some circumstances offsets may also be taken into account when determining net emissions for the State Government.

Offsets

Greenhouse gas offsets (carbon offsets) are generated from activities that avoid or reduce the release of greenhouse gas emissions to the atmosphere or remove greenhouse gases from the atmosphere.

The Bill provides for offsets to be counted towards emissions reduction targets, subject to limitations.

First, offsets will only be 'eligible offsets' for the purposes of the Act where they have been prescribed in regulations. Regulations prescribing offsets will be aligned to international best practice for offset integrity standards to ensure that

offsets represent real emissions reductions. Regulations must be tabled in Parliament and may be disallowed, providing transparency and scrutiny of proposed offsets.

Second, as overreliance on offsets has the potential to undermine the objectives of reducing Western Australia's emissions and driving investment in the state, the Minister will be required, when setting an interim target, to set limits on the extent to which eligible offsets can be used to meet the target. In setting these limits, the Minister will be required to consider the mitigation hierarchy, which preferences emissions reduction over removals, and offsetting emissions as a last resort.

Emissions reduction strategies

The Bill will require an emissions reduction strategy to be prepared within three years of the date on which the Act comes into operation, and reviewed at regular intervals, to support achievement of Western Australia's emissions reduction targets.

The emissions reduction strategy will be developed in consultation with industry, business, research organisations and the community to identify feasible emission pathways and provide a strategic response to emissions reduction across the economy.

Climate adaptation strategies

The Bill will support enhanced resilience to the impacts of climate change by requiring a climate adaptation strategy to be prepared within five years of the date on which the Act comes into operation, and reviewed at regular intervals, to support Western Australia's communities, environment, and economy to adapt to the impacts of climate change.

The climate adaptation strategy will outline the implications of climate change for Western Australia and provide a coordinated response to climate adaptation.

Sector adaptation plans

Sector adaptation planning will support collaboration of stakeholders within a particular sector, including relevant state and local government, research institutions and other interest groups.

Sector adaptation plans will be required for sectors that include activities related to health and human services, emergency management, primary production, infrastructure and built environment, small and medium enterprises, natural environment, and water security.

The legislation will require sector adaptation plans for specified sectors to be developed as soon as practicable after the Act comes into operation.

Annual climate change report to Parliament

The legislation will require the Minister to report at the end of each financial year to Parliament on climate change matters. Annual reporting will enhance accountability and ambition and ensure the Parliament and the Western Australian community are informed about the state's contribution to national and international objectives for climate change mitigation.

Annual reporting will start in 2025.

The Bill allows for reporting on other climate change-related matters, such as climate impacts, or actions undertaken by the State Government to support adaptation to climate change.

3 Provisions in the Bill

3.1 Long title

The long title sets out the purpose of the Bill, namely to provide for:

- Western Australia’s greenhouse gas emissions reduction targets
- emissions reduction strategies, climate adaptation strategies and sector adaptation plans
- annual reporting to Parliament
- related purposes.

3.2 Preliminary provisions

Short title

This is the title of the legislation. Once the Bill has been passed by Parliament and has received Royal Assent it will be known as the *Climate Change Act (WA)*.

Commencement

The Act will commence operation immediately once it has received Royal Assent from the Governor. While the Bill provides that regulations may be made, there are no regulations that are required for the Act to be implemented.

Terms used

The Bill outlines key definitions relevant to the setting of targets, determining net emissions and developing strategies and plans for emissions reduction and adaptation.

Purposes of the Act

The Bill outlines the purposes of the Act which include:

- ensuring that Western Australia contributes to global efforts to reduce greenhouse gas emissions
- providing for emissions reduction targets
- supporting the reduction of net emissions attributable to the state consistently with those targets and the mitigation hierarchy
- ensuring the State Government takes steps to identify and manage climate impacts
- informing Parliament and the community about progress in achieving Western Australia’s emissions reduction targets and responding to climate change.

3.3 Minister's functions

The Bill sets out the functions of the Minister under the Act.

These functions include:

- promoting action to meet Western Australia's emissions reduction targets
- developing, adopting and promoting policies, programs and measures that support emissions reduction
- assessing the impacts of climate change on Western Australia
- developing, adopting and promoting policies, programs and measures that address the impacts of climate change and support adaptation
- regularly reviewing issues relating to mitigation of and adaptation to climate change
- promoting Western Australia's involvement in state, national and international climate change forums.

Further functions can be prescribed in regulations.

3.4 Western Australia's emissions reduction targets

Western Australia's long-term emissions reduction target

The Bill establishes the state's long-term emissions reduction target of net zero emissions by 2050 in legislation. The legislated target does not prevent the achievement of net zero emissions by an earlier date.

Western Australia's interim emissions reduction targets

The Bill creates requirements for the responsible Minister to set interim targets for reducing Western Australia's net emissions to be achieved at specific years called the target years: 2035, 2040, 2045, and 2050.

Interim targets are to include both point targets and five-yearly emissions budgets.

An interim target for 2050 is necessary in order to provide for the five-yearly emissions budget leading up to 2050 (i.e. for the years 2046 to 2050).

Interim targets must be set as soon as practicable after the national targets are set by the Australian Government under Article 4.9 of the Paris Agreement.

These national targets (known as 'nationally determined contributions') are set on a five-yearly cycle, with the next to be set in 2025.

The interim target must include:

- a) other than for 2050, the extent (as a percentage) that net emissions attributable to the state for the year are to be reduced in relation to net emissions attributable to the state for 2005

- b) an emissions budget (i.e. the total cumulative emissions which can be emitted over the relevant period) covering the year and the four preceding years
- c) the extent that eligible offsets can be taken into account in determining net emissions attributable to the state for the purposes of the target.

The Minister must consider the mitigation hierarchy in determining the extent to which eligible offsets can be taken into account.

Under the mitigation hierarchy (which is defined in the Bill) reducing emissions is preferred over relying on removals, with offsetting emissions being considered a last resort. The hierarchy establishes that offsets should be used only when emissions cannot be avoided or reduced.

The Bill provides that the interim target may be expressed as a range.

The Minister must be satisfied that each interim target represents a progression beyond the previous target. This confirms the downward direction of travel in emissions targets towards the 2050 target of zero net emissions.

The baseline year for interim targets for Western Australia is 2005. This is to ensure consistency with national interim targets, which are also set by reference to a 2005 baseline.

Consistent with the purposes of the Act in promoting accountability and providing information to Parliament and the community, each interim target must be published in the *Government Gazette* and laid before each House of Parliament.

Targets for the State Government

The State Government's long-term emissions reduction target is reducing its net emissions to or below zero by 2050.

The legislation creates provisions for the setting of interim targets for the State Government which are similar to those for the state as a whole. This includes statutory requirements for setting interim targets for 2035, 2040, 2045, and 2050.

The State Government will also be required to set an interim target, as a point target, for 2030. The 2030 target must be set as soon as practicable after the Act comes into operation.

The baseline year for interim targets for the State Government is 2020. A different baseline year for State Government targets is necessary as data available from which to estimate a government emissions baseline for 2005 is not available.

Amending interim targets

The Bill provides that the Minister can only amend an interim target for the state or the State Government if the Minister is satisfied that there are exceptional circumstances.

If the Minister amends an interim target, the Minister must provide a copy of the notice by which the target is amended and a statement of reasons setting out why the amendment has been made before each House of Parliament.

3.5 Determining net emissions

Determining net emissions attributable to Western Australia

The Bill requires the Minister to determine the net emissions attributable to Western Australia. This will be the balance of emissions and removals, consistent with the approach adopted under the National Greenhouse Accounts.

The Minister may also take into account any eligible offsets. Eligible offsets may only be taken into account to the extent consistent with limits on offsets specified by the Minister in setting the emissions reduction target for the period.

Determining net emissions attributable to the State Government

The Bill requires the Minister to determine the net emissions attributable to the State Government. This will be the aggregate emissions from the operations of each state entity declared by the Minister to be part of the State Government for the purposes of this Act.

The Minister may also take into account any eligible offsets. Eligible offsets may only be taken into account to the extent consistent with limits on offsets specified by the Minister in setting the emissions reduction target for the State Government for the period.

3.6 Emissions reduction strategy

The Bill requires the Minister to prepare an emissions reduction strategy within three years of the date on which this Act comes into operation. The Minister must as soon as practicable after preparing, amending, or replacing the strategy, ensure that it is laid before each House of Parliament, and is publicly available.

The purpose of the emissions reduction strategy is to support achieving Western Australia's emissions reduction targets and transitioning to net zero emissions.

The Minister must review the operation of the emissions reduction strategy within five years. The Minister must consult publicly when preparing, amending, or replacing the emissions reduction strategy.

3.7 Climate adaptation strategy

The Bill requires the Minister to prepare a climate adaptation strategy within five years of the date on which the Act comes into operation. The Minister must as soon as practicable after preparing, amending, or replacing the strategy, ensure that it is laid before each House of Parliament, and is publicly available.

The purpose of the climate adaptation strategy is to assist Western Australia's communities, the environment, and the economy to adapt to the impacts of climate change.

The Minister must review the operation of the climate adaptation strategy within five years. The Minister must consult publicly when preparing, amending, or replacing the climate adaptation strategy.

3.8 Sector adaptation plans

Sector adaptation plans are intended to identify the risks posed by climate change and facilitate collaboration between sectoral stakeholders to enhance adaptation.

The Bill requires the preparation of sector adaptation plans for specified sectors. These include:

- health and human services
- emergency management
- primary production
- infrastructure and built environment
- small and medium enterprises
- natural environment
- water security
- prescribed sectors.

Sector adaptation plans for specified sectors must be prepared as soon as practicable after the Act comes into operation.

The Minister responsible for the specified sector adaptation plan must review the operation and effectiveness of the plan every five years. The Minister must consult publicly when preparing, amending, or replacing the plan.

3.9 Annual climate change report to Parliament

The Minister must prepare an annual climate change report before the end of each financial year and ensure that each report is laid before each House of Parliament and is publicly available.

The purpose of the annual climate change report is to inform the Parliament and the community of Western Australia about the progress in achieving its emissions reduction targets.

As part of the annual report, the Minister will be required to set out:

- the determination of net emissions attributable to Western Australia and to the State Government for the most recent year for which data is available
- set out the methodology by which the Minister determines net emissions attributable to Western Australia and State Government

- set out which eligible offsets, and how many of each, were taken into account in determining net emissions
- report on progress in implementing the emissions reduction strategy
- report on any other matter the Minister considers appropriate.



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