the BEELIAR GROUP

Professors for Environmental Responsibility
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Parliament Must Hold the Executive Accountable for the State's Greenhouse Gas Emissions

13 June 2022

By email

Dear [Member's name]

Thirty years ago, in November 1992, the members of the *Royal Commission into Commercial Activities of Government and Other Matters* published the final report of their inquiry.

Their report observed that:

> The accountability of government and of the administrative arms of government is at the heart of the matter. Our inherited system of representative democracy has traditionally given the Parliament the central role in securing the executive's accountability to the public. Yet, as we have seen, in its present form the Parliament does not adequately perform that role.

We are writing to you in your capacity as a member of the Parliament of Western Australia, to ask that you hold the executive accountable for the State's greenhouse gas emissions.

This letter sets out key elements of this holding of the State's executive to account.

1.

The first is that – uniquely among the six Australian States – Western Australia's annual greenhouse emissions increased from 2005 to 2019 (by 15.8 Mt CO_2-e, or 20.8%).[1] This trend includes a year-on-year increase of 33.8 Mt CO_2-e in annual greenhouse gas emissions for the Energy sector.[2]

[1] State and Territory Greenhouse Gas Inventories: Annual Emissions: https://www.industry.gov.au/data-and-publications/national-greenhouse-accounts-2019/state-and-territory-greenhouse-gas-inventories-annual-emissions
[2] State and Territory Greenhouse Gas Inventories: Data Tables and Methodology: https://www.industry.gov.au/data-and-publications/national-greenhouse-accounts-2019/state-and-territory-greenhouse-gas-inventories-data-tables-and-methodology
The page advises that the 'Energy' sector is made up of many different sources, including:
'Stationary energy' is mainly greenhouse gas emissions from the production of electricity and other direct combustion of fossil fuels in industries such as manufacturing and construction.

2.

The second is that most of the State's emissions come from industrial, mining and electricity generation facilities, and the emissions from just 25 facilities account for about half of the State's emissions (Table 1).

Notably, using Safeguard facility reported emissions data[3] and designated generation facility data[4] for the 2020-2021 reporting year:

1. five[5] **LNG production facilities** accounted for 19.7 Mt CO_2-e;
2. four **alumina refineries** accounted for 7.9 Mt CO_2-e;
3. four **coal-fired electricity generation facilities** accounted for 6.7 Mt CO_2-e;
4. 61 **mining** and **industrial facilities**[6] accounted for 18.2 Mt CO_2-e; and
5. 38 **gas-fired electricity generation facilities** emitted 7.1 Mt CO_2-e (total emissions, Scope 1 and Scope 2).

The emissions from these facilities reflect the direct combustion of fossil fuels, either for electricity generation purposes, or for stationary energy purposes in the energy, mining and manufacturing industries (Table 2). Fugitive emissions from fossil fuel extraction also contribute to the State's emissions and have increased 246% since 2005.[7]

3.

The third is that the State must align with *Glasgow Climate Pact*[8] objective of reducing global carbon dioxide emissions by 45% by 2030 (relative to the 2010 level). All nations – including Australia – at COP26 in Glasgow in December 2021 agreed to the Pact, to turn the 2020s into a decade of climate action.[9]

Thirty years ago, in May 1992, the international community adopted the *United Nations*

'Transport' comprises greenhouse gas emissions from air, road, rail and shipping transportation.
'Fugitive emissions' comprises the greenhouse gas emissions from the extraction and distribution of coal, oil and natural gas.
[3] Safeguard Facility Reported Emissions 2020-21: http://www.cleanenergyregulator.gov.au/NGER/National%20greenhouse%20and%20energy%20reporting%20data/safeguard-facility-reported-emissions/safeguard-facility-reported-emissions-2020-21
[4] Electricity Sector Emissions And Generation Data 2020-21: http://www.cleanenergyregulator.gov.au/NGER/National%20greenhouse%20and%20energy%20reporting%20data/electricity-sector-emissions-and-generation-data/electricity-sector-emissions-and-generation-data-2020-21
[5] The Prelude Floating Liquefied Natural Gas (FLNG) facility is located in Commonwealth waters, and greenhouse gas emissions from the facility are regulated under Commonwealth legislation. Greenhouse gas emissions from the Prelude FLNG facility are attributed to Western Australia under the National Greenhouse and Energy Reporting (NGER) scheme and under the National Greenhouse Accounts. If the Prelude FLNG facility is excluded, the other four LNG production facilities accounted for 18.2 Mt CO_2-e of emissions.
[6] The group comprises 3 facilities with greater than 1.0 Mt CO_2-e Scope 1 emissions and 58 facilities with between 0.7 to 0.1 Mt CO_2-e Scope 1 emissions.
[7] State and Territory Greenhouse Gas Inventories: time series data table (WA data): https://www.industry.gov.au/data-and-publications/national-greenhouse-accounts-2019/state-and-territory-greenhouse-gas-inventories-data-tables-and-methodology
[8] Available at: https://unfccc.int/sites/default/files/resource/cop26_auv_2f_cover_decision.pdf
[9] https://unfccc.int/process-and-meetings/the-paris-agreement/the-glasgow-climate-pact-key-outcomes-from-cop26

Framework Convention on Climate Change (UNFCCC). In doing so, the international community recognised climate change and its effects as a 'common concern of humankind'.

The *Paris Agreement* to the UNFCCC decided by 196 nations on 12th December 2015 reflects the judgement of the international community that the risks associated with a temperature change of 2°C are unacceptably high, and that the long-term temperature goal of holding warming well below 2°C – and pursuing efforts to limit warming to no more than 1.5°C – is necessary and achievable. The *Paris Agreement* requires nations to ratchet up their commitments to achieve these outcomes.

The *Glasgow Climate Pact* recognised that 'limiting global warming to 1.5°C requires rapid, deep and sustained reductions in global greenhouse gas emissions, including reducing global carbon dioxide emissions by 45 per cent by 2030 relative to the 2010 level and to net zero around mid-century, as well as deep reductions in other greenhouse gases'.

A 1.5°C pathway to net zero around mid-century for Western Australia must have a short-term target consistent with Australia's contribution to meeting the goals of the *Paris Agreement* and, in particular, be consistent with the global achievement of a 45% reduction in greenhouse gas emissions by 2030. As a developed country it is well understood that Australia will need to make emission reductions deeper than those indicated by this global emission reduction goal.

For Australia as a whole, the available scientific evidence based on the IPCC's recent 1.5°C pathway analysis indicates that 1.5°C compatible domestic emission reductions including land use change and forestry (LULUCF) need to be greater than 57% by 2030 from 2005 levels.[10] Excluding land use change and forestry (LULUCF), the emission reductions needs to be at least 47% by 2030.

As part of the Australian federation we have, to date, relied on the emissions reduction work of the other States – New South Wales, Queensland, South Australia, Tasmania and Victoria. As the nation re-focuses efforts for strong climate action this decade, this State must account for its historical and future emissions, and act to reduce emissions in accord with a 1.5°C pathway to net zero around mid-century.

A 1.5°C pathway requires a whole-of-economy commitment to achieve a just and equitable transition in the State, driven by substantial emissions reductions at source across all sectors. The benefit of such action is to position the State to take full advantage of the new economic opportunities of the global net-zero transition and to build, as the *Western Australian Climate*

[10] Climate Analytics, *Australian election 2022 political party and independent climate goals: analysis* (6 May 2022): https://climateanalytics.org/publications/2022/australian-election-2022-political-party-and-independent-climate-goals-analysis/

Policy states, a 'climate-resilient community and a prosperous low-carbon future'.

Aligning with a 1.5°C pathway will also ensure that Western Australia does not 'risk losing global investment opportunities, as financiers and industry look elsewhere for greater certainty, action and risk mitigation'.[11]

4.

The fourth is that the State can align with *Glasgow Climate Pact* objective of reducing global carbon dioxide emissions by 45% by 2030 (relative to the 2010 level) through substantial decarbonisation of industrial, mining and electricity generation facilities at source this decade.

A basic principle for decarbonising facilities that rely on direct combustion of natural gas and coal for stationary energy purposes is, as stated last week in a joint statement of 24 governments (including Australia) at the Global Conference on Energy Efficiency in Denmark: 'The cleanest energy is the energy we don't use'.[12]

For example, substantial emissions reductions would be achieved through the electrification of LNG production at current and proposed LNG facilities and the use of renewable energy sources and battery storage to meet electricity requirements.[13] A June 2021 report from the Australian Industry Energy Transitions Initiative noted that:

> The processes associated with production and export of LNG are highly energy-intensive, with LNG plants alone responsible for approximately one-quarter of Australian gas consumption for both thermal and electrical energy generation.[14]

Within this element of holding to account, we also note that directors of companies operating in Western Australia must consider their duties as regards climate risk and their social licence to operate in this State. By way of example, South32 Worsley Alumina Pty Ltd has submitted a mine expansion proposal to the EPA, currently in the assessment phase,[15] which proposes the clearing of c. 4400 ha of native vegetation,[16] but no change in greenhouse gas emissions

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[11] *Foundations for a Stronger Tomorrow: State Infrastructure Strategy - Draft for public comment*: https://www.infrastructure.wa.gov.au/state-infrastructure-strategy

[12] https://en.kefm.dk/Media/637904431073034736/joint%20statement.pdf

[13] See, for example, the five key industrial supply chains discussed in the *Australian Industry Energy Transitions Initiative Phase 1 Technical Report* by ClimateWorks Australia (June 2021) (available at https://energytransitionsinitiative.org/ and https://www.climateworkscentre.org/resource/australian-industry-energy-transitions-initiative-phase-1-report/); https://www.nera.org.au/NERA-projects/Solar-LNG-Study; https://www.nstauthority.co.uk/the-move-to-net-zero/platform-electrification/

[14] *Australian Industry Energy Transitions Initiative Phase 1 Technical Report* by ClimateWorks Australia (June 2021) (available at https://energytransitionsinitiative.org/ and https://www.climateworkscentre.org/resource/australian-industry-energy-transitions-initiative-phase-1-report/

[15] https://www.epa.wa.gov.au/proposals/worsley-mine-expansion-%E2%80%93-revised-proposal

[16] See the section 43A Notice issued 13 March 2022, available at: https://www.epa.wa.gov.au/proposals/worsley-mine-expansion-%E2%80%93-revised-proposal

for the Worsley Refinery.[17]

5.

The fifth element is that the cumulative greenhouse gas emissions, both historical and future, from the five current LNG production facilities, four alumina refineries, and four coal-fired electricity generation facilities – and the cumulative future emissions from the proposed Pluto 2 LNG production train – are of State, national, and international consequence:

a. as a proportion of historical and future State and national greenhouse gas emissions;
b. as a share of Australia's current and future Nationally Determined Contribution under the Paris Agreement;
c. as a proportion of the remaining global carbon budget necessary to limit warming to 1.5°C;
d. as a share of a 1.5°C pathway to net zero around mid-century for Western Australia that aligns with the *Glasgow Climate Pact* objective of reducing global carbon dioxide emissions by 45% by 2030 relative to the 2010 level;
e. in the context of accountability and fairness within the Australian federation, given the emissions trajectories and emissions reductions targets of New South Wales, Queensland, South Australia, Tasmania, and Victoria;
f. in the contribution they have made, and will make, to climate change[18]; and
g. as a historical and future contributor to the responsibility of Australia for the effects of climate change.

6.

The sixth element is that parts of the executive of this State are too close to the LNG industry, such that LNG industry lobbyists and company representatives have special access and influence within government.

For example, members of the executive have accepted, relied on, and publicly endorsed factual claims of Scope 3 emission reductions based on Western Australian LNG products displacing coal in Asian countries. This is concerning given:

- the lack of an agreed international framework for the validation of such claims;
- the lack of EPA guidance on how decision-makers should regard proponents' claims of 'avoided emissions'; and
- the failure of LNG companies to present empirical examples across the entire value chain for their products despite long-term supply contracts in Asian markets.

The 1992 Royal Commission report emphasised the constitutional duty of Parliament to ensure that the executive conforms to the 'trust principle', namely that the institutions, officials and agencies of government exist for the public, to serve the interests of the public.

[17] See page 18 of the Worsley Mine Expansion Referral Supporting Document and the Environmental Scoping Document, available at: https://www.epa.wa.gov.au/proposals/worsley-mine-expansion-%E2%80%93-revised-proposal
[18] As quantified by, e.g., their Global Warming Potential (GWP) or other metric.

This Parliament must therefore ensure that Ministers and other public officials exercise their powers in accord with the public trust conferred on them, for the betterment of all West Australians.

To do so, Parliament must articulate the public interest for greenhouse gas emissions in this state, and apply that standard of the public interest to evaluate the actions of the executive. This evaluative function is critical to the holding of the executive to account – as the Chief Justice of the Federal Court of Australia recently observed:

> Evaluation of good or bad decision-making about greenhouse gas emissions and the risks of global warming is one to which the highest considerations of the welfare of the Commonwealth attend.[19]

The community of West Australians to which this standard of the public interest is directed includes the young persons and future children of this State who will live in a climate made more or less warmer by the actions of governments to reduce greenhouse emissions this decade consistent with the *Glasgow Climate Pact* – or to permit resource and energy companies to install unabated[20] fossil fuel infrastructure that will 'lock-in' greenhouse gas emissions for several decades.

7.

The seventh element is the public interest in long-term carbon security and the application of the mitigation hierarchy to require facilities to decarbonise at source not by offset. This has two key aspects.

First, carbon in gas, oil and coal is most secure when the fossil fuel remains unburned. Likewise, the carbon in native forests and woodlands is most secure when the vegetation remains intact. This emphasizes the public interest in conserving and securing the State's carbon sinks and reservoirs, as the executive has done in acting to end native forest logging.

Second, carbon offsets do not support rapid, deep and sustained reductions in greenhouse gas emissions consistent with *Glasgow Climate Pact.*

Carbon offsets offer weaker long-term carbon security because of the risk of carbon reversal, uncertainties about future carbon markets, questions about integrity of offsets and over-

[19] *Minister for the Environment v Sharma* [2022] FCAFC 35, [247] (15 March 2022) (Allsop CJ): http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2022/35.html

[20] Following the Summary for Policymakers in the IPCC report *Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, we use 'unabated fossil fuels' to refer to fossil fuels produced and used without interventions that substantially reduce the amount of greenhouse gas emissions emitted throughout the life-cycle. See C.4 (and footnote) in the Summary for Policymakers, available at: https://www.ipcc.ch/report/ar6/wg3/

crediting. They must be reserved for genuinely hard-to-abate industrial and agricultural processes. Most of the processes involved in the industries listed above can be dealt with using technology available now.

Actions to hold the executive accountable for the State's greenhouse gas emissions

We ask that you, in your capacity as a member of the Parliament of Western Australia, call for the following Parliamentary actions, to ensure Parliament holds the executive accountable for the State's greenhouse gas emissions:

1. Implement an ***Independent Review of Ministerial Conditions and Regulatory Arrangements for Greenhouse Gas Emissions from Industrial, Mining and Electricity Generation Facilities in Western Australia***[21], with terms of reference to include:
    a. an audit of compliance with Ministerial conditions;
    b. an evaluation of legislative reform options to regulate greenhouse gases under *Environmental Protection Act 1986* Part V licences;
    c. an evaluation of the application of the mitigation hierarchy for greenhouse gas emissions, including measures to decarbonise industrial, mining and electricity generation facilities at source and a concept of 'residual emissions' for greenhouse gas emissions consistent with the mitigation hierarchy; and
    d. an assessment of long-term carbon security for carbon offsets (for residual emissions).

2. Enact a ***Climate Integrity Act*** for Western Australia, to include:
    a. a *Paris Agreement*-aligned 2030 short-term whole-of-economy emissions reduction target for the State that includes a credible baseline year[22];
    b. three objects, namely, to:
        i. to set a short-term greenhouse gas emissions reduction target;
        ii. ensure decision-makers have regard to climate change and the best available science for climate action and policymaking; and
        iii. ensure the Government of Western Australia abides by the principle that, in relation to climate mitigation and adaptation, Ministers and other public officials must treat all people equally without permitting any person or corporation special access or influence

[21] Noting that, in the Legislative Council on 16 March 2022 (at pages 916-917 in Hansard) (link to Question on Notice), the Honourable Stephen Dawson provided the following answer on behalf of the Minister for Environment: 'I am informed that the Environmental Protection Authority is currently working to deliver contemporary greenhouse gas ministerial conditions for a number of high-emitting projects, including Wheatstone, Gorgon, Pluto and the North West Shelf development. I expect to receive the EPA's recommendations to contemporise these conditions before the end of the year.'

[22] Noting that in December 2021, in announcing the development of the sectoral emissions reduction strategies, the Minister for Climate Action (then the Honourable Amber-Jade Sanderson) stated that 'the State Government will impose an interim 2030 emissions reduction target for all government agencies and trading enterprises' (see https://cciwa.com/business-pulse/2030-targets-for-was-low-carbon-roadmap/) and that, in March 2022, the Environment and Climate Action Minister stated that 'We are currently working on a plan to cut emissions from our own activities, with a focus on an interim target for 2030' (https://www.mediastatements.wa.gov.au/Pages/McGowan/2022/03/Draft-Bill-to-help-WAs-resources-industry-reduce-emissions.aspx).

c. provisions imposing considerations for decision-making and policy-making, similar to sections 17 (Decision makers must have regard to climate change) and 20 (Decision and policy making) of the Victorian *Climate Change Act 2017*;

d. a provision defining the '***best available science***' in relation to decisions relating to greenhouse gas emissions as including information relating to:

    i. Scope 1 and 2 emissions;

    ii. Scope 3 emissions, including empirical information for emissions across the entire value chain for fossil fuel products (eg using the definition for a 'marketable petroleum commodity' as defined in the *Petroleum Resource Rent Tax Assessment Act 1987*);

    iii. application of the mitigation hierarchy for activities which emit greenhouse gases, with primary emphasis on measures to avoid and reduce emissions at source;

    iv. long-term carbon security for any proposed carbon offsets for residual emissions

e. provisions regulating post-public service employment, including to impose a mandatory cooling off period for Ministers, ministerial staff senior executives within public sector entities; and

f. provisions regulating '***Large Emitter***' access to Ministers, ministerial staff, and senior executives within public sector entities, including:

    i. a statutory requirement to publish Ministerial diaries in real time;

    ii. a statutory requirement for real-time donations disclosure (for all donations, regardless of source);

    iii. the establishment of a '***Large Emitters Disclosure Register***' (LEDR) to document:

        (a) meetings between Ministers, ministerial staff, senior executives within public sector entities and (i) energy industry lobbyists and (ii) representatives from corporations with total Scope 1 or Scope 2 emissions greater than 100,000 t CO_2-e (as indicated in the greenhouse and energy information by controlling corporation for the most recent reporting year, as published the Clean Energy Regulator);

        (b) communications between Ministers, ministerial staff, senior executives within public sector entities and (i) energy industry lobbyists and (ii) representatives from corporations with total Scope 1 or Scope 2 emissions greater than 100,000 t CO2-e (as indicated in the greenhouse and energy information by controlling corporation for the most recent reporting year, as published the Clean Energy Regulator)

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Yours faithfully,

Signatories:

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The 21 signatories are members of the Beeliar Group of Professors for Environmental Responsibility. The Beeliar Group was formed in January 2017 out of concern over the process used to plan and implement the Perth Freight Link and Roe Highway Stage 8.

Table 1:

The 25 highest-emitting industrial and electricity generation facilities in Western Australia, based on reported covered emissions for Safeguard facilities[23] and total emissions[*] (Scope 1 and Scope 2) for designated generation facilities[24] for the 2020-2021 reporting year, in tonnes carbon dioxide equivalent (CO_2-e) emissions.

Facility Name	2020-2021 Reported Emissions (t CO_2-e)	Facility Name	2020-2021 Reported Emissions (t CO_2-e)
North West Shelf Project	6,784,581	Alinta Pinjarra Generation Facility	1,087,443[*]
Gorgon Operations	5,460,144	Cockburn Operations	1,044,918
Wheatstone Operations	4,025,254	Collie Power Station	958,188[*]
WOR01 Worsley Alumina Refinery/Mine	3,657,800	Kwinana Gas Fired Power Station	795,906[*]
Muja Power Station	3,262,123[*]	CSBP Kwinana Facility	697,197
Bluewaters Power 1 & 2	2,475,748[*]	Pilbara Rail Operations	656,605
Pluto LNG	1,945,741	Christmas Creek Mine	574,485
Pinjarra Alumina Refinery	1,576,697	PRL03 Rail - IOR Facility	548,215
FLNG[25]	1,506,548	Telfer Gold Mine	500,048
YPF Ammonia Plant	1,456,927	Pinjar Gas Turbine Station	497,194[*]
Wagerup Alumina Refinery	1,415,989	Solomon Mine	436,846
Kwinana Alumina Refinery	1,292,269	Roy Hill Mine	430,818
Sino Iron Project – Cape Preston	1,241,225	**Total**	44,328,909

[23] Safeguard facility reported emissions 2020-21: http://www.cleanenergyregulator.gov.au/NGER/National%20greenhouse%20and%20energy%20reporting%20data/safeguard-facility-reported-emissions/safeguard-facility-reported-emissions-2020-21

[24] Electricity sector emissions and generation data 2020-21: http://www.cleanenergyregulator.gov.au/NGER/National%20greenhouse%20and%20energy%20reporting%20data/electricity-sector-emissions-and-generation-data/electricity-sector-emissions-and-generation-data-2020-21

[25] Greenhouse gas emissions from the Prelude Floating Liquefied Natural Gas (FLNG) facility are attributed to Western Australia under the National Greenhouse and Energy Reporting (NGER) scheme and under the National Greenhouse Accounts.

Table 2:

Sectoral breakdown of greenhouse gas inventories and contribution to national emissions for Western Australia in 2019.

Percentage (%) contribution reflects Western Australia's contribution to the national emissions for that sector in 2019, e.g. for **Energy**: national emissions were 433.2 million tonnes CO_2-e and Western Australia's emissions were 84.3 million tonnes CO_2-e, which is 19.5%

Source: 2019 State and Territory Greenhouse Inventories[26]

Sectors	Emissions million tonnes CO_2-e	% Contribution to National Emissions
Energy	84.3	19.5%
Stationary Energy	56.6	20.3%
Energy Industries	36.5	17.1%
Electricity generation	25	14.0%
Other energy industries	11.4	33.2%
Manufacturing and construction	16.8	41.3%
Other sectors	3.3	14.0%
Transport	14.9	14.8%
Fugitive Fuels	12.8	23.5%
Industrial Processes	4.3	13.7%
Agriculture	9.9	13.2%
Livestock	5.6	10.4%
Other Agriculture	4.3	20.4%
Waste	1.9	13.8%
Land Use, Land Use Change and Forestry	-8.6	-34.3%
Inventory total	**91.9**	**17.4%**

[26] https://www.industry.gov.au/data-and-publications/national-greenhouse-accounts-2019/state-and-territory-greenhouse-gas-inventories-data-tables-and-methodology#about-these-inventories