

## STATEMENT OF PUBLIC INTEREST

### Need: Why is the policy needed based on factual evidence and stakeholder input?

The policy underpinning the Bill intends to provide more investment certainty and support implementation for the Electricity Infrastructure Roadmap. The Bill is needed to:

- Provide a process for the Renewable Energy Sector Board (Board) to amend its plan and require the Regulator to be satisfied the plan promotes social and economic benefits for the NSW community and economy.
- Clarify the application of the maximum capital cost (MCC) for a Renewable Energy Zone (REZ) Network Infrastructure Project to the initial revenue determination and requiring the Consumer Trustee to share that maximum amount with the Minister and other persons, allowing the NSW Government to assess and mitigate potential financial risks while also retaining the intended consumer protections.
- Introduce a new minimum objective for the construction of long duration storage by 2034 to provide legislative certainty and a clear long term investment signal.
- Provide for access scheme-related activities to be exceptions from Part IV of the *Commonwealth Competition and Consumer Act 2010* (CCA).
- Provide for payments between a Network Operator and the Scheme Financial Vehicle to give effect to adjustments under a revenue determination when a Network Operator's authorisation or direction to carry out a network project ceases to have effect. This allows the Regulator to reconcile any under or overpayment of Network Operators.
- Provide for the AER to disclose information to the Minister in connection with its functions and powers under the National Electricity Law (NEL), monitor and enforce compliance with the modified National Electricity Rules (NER), and allow the modified Rules to specify civil penalty provisions.
- Enable the Treasurer to direct any funds originally appropriated from the Consolidated Fund into the Energy Administration Account back to the Consolidated Fund, subject to the concurrence of the Minister.

### Objectives: What is the policy's objective couched in terms of the public interest?

The amendments support the reliability, affordability and sustainability of the NSW energy system.

The MCC amendments support management of financial risks for the NSW Government and maintain existing consumer protections contained within the *Electricity Infrastructure Investment Act 2020*. The new 2034 minimum objective is to provide longer policy certainty for investors and enable the Consumer Trustee to commence tenders so that there is a pipeline of long duration storage projects under development.

The EII Act amendments regarding the Board's plan will ensure the Board's plan can better maximise the use of local goods, services and workers.

Other minor administrative and governance amendments have been proposed in relation to ensuring consumers are not overpaying Network Operators; supporting the effective operation of access rights schemes (while retaining protections against anti-competitive



behaviour); ensuring the Roadmap's access schemes can be delivered under the National Electricity Rules; and providing a legislative pathway to enable excess funds to be repaid to the Consolidated Fund.

### **Options: What alternative policies and mechanisms were considered in advance of the bill?**

Other options for the MCC amendments, including different formulations of when the MCC should apply or removing it entirely, were considered

The proposed 2034 minimum objective stems from a review, which involved extensive public consultation. The impact of different amounts of long duration storage were considered through electricity market modelling.

The Board amendment was prepared after consideration of a range of other amendments proposed by the Member for Barwon in another bill.

Alternatives to the end of term payment amendments included using contractual arrangements or amending the *Electricity Infrastructure Investment Regulation 2021* (EII Regulation).

Not proceeding with the CCA amendment was considered as the proposed authorised activities may not in practice contravene national competition laws, but it was preferred to avoid all doubt.

For the NEL amendments, the alternative option considered using repeated regulation amendments.

No non-legislative solutions were identified regarding the EUA Act amendment.

### **Analysis: What were the pros/cons and benefits/costs of each option considered?**

The alternatives to the MCC amendments were determined not to appropriately balance management of potential financial risks and strong consumer protections.

The chosen amount of 12 gigawatt hours for the 2034 minimum objective is a conservative estimate, while enabling the Consumer Trustee to tender for a greater amount if required.

The amendments related to the Board's plan were preferred because they involved less administrative complexity.

The alternatives to the end of term payment amendments were held to provide insufficient investment certainty and consumer protection.

The CCA amendments were preferred to remove all doubt and provide additional certainty for public servants and other individuals involved in tender processes.

The alternative to the NEL amendments was rejected as administratively prohibitive and creating an enforcement gap.

In respect of the EUA Act amendments, there is a need to provide the Treasurer with the power to direct repayments so that excess funds may be repaid to the Consolidated Fund.

### **Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

All proposed changes are to commence on assent of the Bill. Several aspects of the amendments are needed to commence by the end of 2024 to provide legislative certainty and enable the continued renewable energy transition.

The amendments will not change existing administrative functions in respect of the Acts they amend.



**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

For the MCC amendments, key stakeholders were consulted including AEMO Services Ltd (ASL) and the AER. The Energy Corporation of NSW (EnergyCo) and NSW Treasury also contributed to the policy. All stakeholders were supportive.

For the long duration storage amendments, a public consultation received 30 written submissions from industry bodies, developers and advisory firms. Stakeholder feedback clearly outlined the need for transparent and clear policy and suggested an objective based on the timed exit of NSW coal-fired power stations. Other stakeholders consulted were ASL and EnergyCo, who were supportive of the final amendments.

For the Plan amendments, the Independent Pricing and Regulatory Tribunal's views (as the regulator) were considered in making the policy and they were supportive of the final amendments.

For the end of term payment amendments, the AER was consulted and indicated its support for the proposed amendments.

For the Commonwealth CCA amendments, EnergyCo was supportive, as this amendment impacts EnergyCo's functions as the Infrastructure Planner.

For the NEL amendments, the AER was consulted in the development of the policy and through the Bill drafting process to ensure they are able and willing to enforce the NER as modified by the EII Regulation. AEMO was also be consulted because their concurrence is required for any EII Regulation that affects AEMO's powers. The Australian Energy Market Commission was also briefed on the amendments.

For the EUA Act amendments, NSW Treasury and EnergyCo were consulted and indicated support for the adopted policy positions.