



New South Wales

Energy Amendment (Long Duration Storage and Investment) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to—

- (a) amend the *Electricity Infrastructure Investment Act 2020* (the *EII Act*) to—
 - (i) provide that the regulator may only recommend the NSW renewable energy sector plan to the Minister if the regulator is satisfied the plan promotes social and economic benefits for the NSW community and economy, in addition to the current requirement that the regulator be satisfied the plan protects the financial interests of NSW electricity customers and is consistent with Australia’s international trade obligations, and
 - (ii) provide a process for amending the plan for the NSW renewable energy sector, and
 - (iii) require the consumer trustee to notify the Minister of the maximum amounts set by the consumer trustee for the capital costs for the development and construction of renewable energy zone (*REZ*) network infrastructure projects, and
 - (iv) enable the Minister to disclose the maximum amount for the capital costs of a REZ network infrastructure project to other persons, and
 - (v) require persons to whom the maximum amount for the capital costs of a REZ network infrastructure project is disclosed to keep the information confidential, and
 - (vi) clarify that the limit imposed by the maximum amount set by the consumer trustee on the determination by the regulator of an amount that may be paid to a network operator applies only to the regulator’s initial determination and not to—
 - (A) the adjustment of amounts under the determination or the regulations, or

- (B) the statutory periodic review and remaking of determinations by the regulator, and
 - (vii) set a new minimum objective for the construction of long-duration storage infrastructure with a total storage of at least 28 gigawatt hours by 31 December 2033, and
 - (viii) authorise particular conduct in relation to an access scheme for the purposes of the *Competition and Consumer Act 2010* of the Commonwealth (the ***Commonwealth Act***), section 51(1)(b)(i) to the extent the conduct would otherwise contravene the Commonwealth Act, Part IV or the Competition Code of New South Wales, and
 - (ix) deal with adjustments of amounts payable to and from network operators in relation to network infrastructure projects under the regulator's determinations, and
 - (x) facilitate NSW modifications to the *National Electricity Rules* relating to access schemes for renewable energy zones and REZ network infrastructure projects, and
- (b) amend the *Energy and Utilities Administration Act 1987* to allow amounts to be paid out of the Energy Administration Account and into the Consolidated Fund to repay amounts that were paid into the Energy Administration Account from the Consolidated Fund.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 **Amendment of Electricity Infrastructure Investment Act 2020 No 44**

Schedule 1[1] amends section 8 to provide that the regulator may only recommend the NSW renewable energy sector plan to the Minister if satisfied the plan will promote social and economic benefits for the NSW community and economy.

Schedule 1[2] inserts proposed section 8A, which enables the board to propose amendments to the NSW renewable energy sector plan. The Minister may approve an amendment proposed by the board on the recommendation of the regulator.

Schedule 1[3]–[5] amend section 31 to—

- (a) require the consumer trustee to notify the Minister of the maximum amount set by the consumer trustee for the capital costs for the development and construction of a REZ network infrastructure project as soon as practicable after the consumer trustee gives written notice of the maximum amount to the regulator, and
- (b) enable the Minister to disclose the maximum amount to other persons, subject to conditions relating to the further disclosure and confidentiality of the maximum amount, and
- (c) require persons to whom the maximum amount is disclosed to keep the information confidential and only disclose the information if authorised by, and in accordance with, the conditions of the Minister's disclosure.

Schedule 1[6] makes it clear that the EII Act, Part 5, Division 3 applies to network operators who were subject to an authorisation and persons who were network operators subject to authorisations. **Schedule 1[7]** makes a consequential amendment.

Schedule 1[9]—

- (a) provides that an adjustment provision included in a determination may provide that amounts may be payable by a network operator to the scheme financial vehicle in specified circumstances, and
- (b) makes it clear that—

- (i) a provision of a determination about the adjustment of amounts may have effect after the expiry of the relevant authorisation, and
- (ii) if a provision in a determination about the adjustment of amounts requires a determination to be reviewed and remade, a determination may be remade and a provision in a determination about the adjustment of amounts may have effect and provide for amounts to be payable by a network operator to the scheme financial vehicle.

Schedule 1[10] amends section 38 to clarify that the limit imposed by the maximum amount set by the consumer trustee on the determination by the regulator of an amount that may be paid to a network operator does not apply to the payment of amounts adjusted under a determination of the regulator or the regulations.

Schedule 1[11] amends section 39 to provide that a network operator must pay the scheme financial vehicle the amount the scheme financial vehicle is entitled to in accordance with the regulator's determination. **Schedule 1[8] and [17]** make consequential amendments.

Schedule 1[12] amends section 40 to clarify that the limit imposed by the maximum amount set by the consumer trustee on the determination by the regulator of an amount that may be paid to a network operator only applies to the regulator's initial determination and not to the statutory periodic review and remaking of determinations by the regulator.

Schedule 1[14] and [16] amend section 44 to set a new minimum objective for the construction of long-duration storage infrastructure with a total storage of at least 28 gigawatt hours by 31 December 2033. **Schedule 1[13] and [15]** make consequential amendments.

Schedule 1[18] amends section 72 to prescribe the exercising of a function in relation to, or giving effect to a requirement in relation to, the grant, increase or administration of access rights in an access scheme by a person or body as *relevant conduct* that is specifically authorised to the extent the conduct would otherwise contravene the Commonwealth Act, Part IV or the Competition Code of New South Wales unless the person or body—

- (a) holds access rights in the access scheme, or
- (b) is applying or competing to hold access rights in the access scheme.

Schedule 1[19] and [22] insert proposed section 80 and Schedule 2 into the EII Act to modify the *National Electricity (NSW) Law* as it applies in NSW. The modifications deal with the following—

- (a) the operation of civil penalty provisions included in the *National Electricity Rules* by operation of a regulation under the EII Act, section 27 or 41, or both,
- (b) matters relating to other provisions included in the *National Electricity Rules* by operation of a regulation under the EII Act, section 27 or 41, or both,
- (c) information sharing and the use of information by the AER,
- (d) other consequential matters relating to the modification of the *National Electricity Rules*.

Schedule 1[21] inserts—

- (a) a transitional provision that requires the consumer trustee to give the Minister written notice of the maximum amounts for the capital costs for the development and construction of REZ network infrastructure projects set by the consumer trustee before the commencement of the transitional provision and extends the amendments made in Schedule 1[5] to that information, and
- (b) a savings provision to validate conduct that occurred before the commencement of the amendment in Schedule 1[18] that would, if done after the commencement of that provision, have been relevant conduct authorised under section 72 as amended by Schedule 1[18].

Schedule 1[20] makes a consequential amendment.

Schedule 2 Amendment of Energy and Utilities Administration Act 1987 No 103

Schedule 2[4] amends section 35 to provide that amounts may, at the direction of the Treasurer with the concurrence of the Minister for Energy, be paid out of the Energy Administration Account and into the Consolidated Fund for the purposes of repaying amounts that were paid into the Account from the Consolidated Fund (*CF originated amounts*) in accordance with any terms on which the CF originated amounts were paid into the Energy Administration Account. **Schedule 2[1]–[3]** make minor law revision and consequential amendments.