



ENERGY LEGISLATION AMENDMENT BILL 2023

STATEMENT OF PUBLIC INTEREST

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

The purpose of the Energy Legislation Amendment Bill 2023 (the Bill) is to amend the *Electricity Infrastructure Investment Act 2020* (the EII Act) and the *Energy and Utilities Administration Act 1987* (the EUA Act) to allow for the smooth delivery of the NSW Government's Electricity Infrastructure Roadmap (the Roadmap).

Most of the proposed amendments in the Bill implement the first tranche of NSW Government's response to the NSW Electricity Supply and Reliability Check Up (the Check Up) that was prepared for the NSW Government in August 2023. This was an independent report that considered the NSW electricity system transition strategy including developments that have occurred since the passage of the EII Act. In carrying out the Check Up, Marsden Jacobs conducted targeted interviews with NSW Government agencies, National Electricity Market bodies and industry associations representing electricity generators, networks, and consumers in NSW.

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

The objective of the EII Act is to give effect to the Roadmap – an integrated policy framework to secure an affordable reliable and clean energy future for the state as it transitions into renewable energy power sources. The EII Act encourages investment in new electricity generation, storage, network, and related infrastructure by reducing risk for investors. The objective of the Bill is to drive the objects of the Act and enhance the framework for NSW consumers and in the public interest by:

- Improving the reliability and security of electricity supply by making the Secretary the default energy security target monitor with a view to replacing AEMO;
- Maintaining the investment signal for the overall storage volume objective;
- Supporting the Roadmap entities to continue to carry out their functions such as by providing the Scheme Financial Vehicle a more transparent process for recovering their costs and a regulation making head of power to guide the Consumer Trustee in the exercise its functions; and
- Supporting investment in network infrastructure through mature governance arrangements for the Energy Corporation of NSW (EnergyCo) that will improve decision-making and risk management processes.



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

Regarding Schedule 1 amending the EII Act, the intent of these amendments are to ensure that the legislative framework provides the most appropriate guardrails for a smoother delivery of the Roadmap as opposed to introducing new policy. Amending the existing legislation is the only mechanism available.

Regarding Schedule 2 amendments to the EUA Act, policy considered various options for how to reform EnergyCo governance framework. A general government statutory body established under legislation was considered to be an appropriate entity structure for EnergyCo. A Department or a State-Owned Corporation were not considered suitable models for EnergyCo's future state at this time. Given the governance framework is set out in the EUA Act, a legislative amendment is needed to amend that framework. No other policies or non-legislative mechanisms to implement the governance amendments were available.

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

The Bill does not impose any appreciable cost or burden on the public or any group of the public. As such, for Schedule 1 amending the EII Act, no alternative policies and mechanisms have been considered or analysed.

For Schedule 2, amending the EUA Act, while various options were considered for the appropriate entity structure for EnergyCo, all options require legislative amendment. No alternative policies or non-legislative mechanisms to implement the governance amendments were available. There may be a financial impact associated with the amendment to EnergyCo's governance framework, however this is expected to be absorbed from within EnergyCo's existing budget allocation.

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

Schedule 1 amending the EII Act will commence on assent. The Minister for Energy is responsible for administering the EII Act. Schedule 2 amending the EUA Act will commence on proclamation, aiming for the first half of 2024. The Minister for Energy is responsible for administering the EUA Act.

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

Yes, the department undertook targeted consultation with the stakeholders affected by the policy (that is, the Scheme Financial Vehicle, Consumer Trustee, EnergyCo and the Australian Energy Regulator) prior to the Bill through targeted consultation and during the drafting of the Bill. The views of these entities were considered and have been reflected in the Bill where appropriate.