



New South Wales

Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Bill 2026 (No 2)

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Electricity Infrastructure Investment Act 2020* to—
 - (i) make the efficient decommissioning of solar and wind energy infrastructure and the remediation of land on which the infrastructure was located objects of the Act, and
 - (ii) require the NSW renewable energy sector board (the **board**) to plan for how to achieve the objectives,
- (b) to amend the *Protection of the Environment Operations Act 1997* to require—
 - (i) environment protection licences for solar electricity generating works, and
 - (ii) Ministerial consent for the transfer of a licence relating to solar or wind electricity generating works,
- (c) to amend the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021* to impose conditions on development consents relating to solar and wind electricity generating works requiring—
 - (i) the decommissioning of the works and the remediation of the land on which the development is located, and
 - (ii) the giving of security to ensure compliance with decommissioning and remediation requirements.

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] expands the objects of the *Electricity Infrastructure Investment Act 2020* to include ensuring renewable energy infrastructure is efficiently decommissioned and the land on which the infrastructure was located is appropriately remediated (the *decommissioning objects*).

Schedule 1[2] expands the remit of the board to include a function relating to the decommissioning objects.

Schedule 1[3] requires the plan prepared by the board for the NSW renewable energy sector to set out how the decommissioning objects will be achieved.

Schedule 1[4] inserts proposed section 8B, requiring the board to, as soon as practicable after the commencement of the proposed section, propose amendments to the existing NSW renewable energy sector plan relating to the decommissioning objects.

Schedule 1[5] inserts definitions of *remediation* and *renewable energy infrastructure*.

Schedule 2 Amendment of Environmental Planning and Assessment Act 1979 No 203

Schedule 2 inserts a regulation-making power into the *Environmental Planning and Assessment Act 1979*, section 4.17 to enable regulations to be made imposing conditions on development consents to require the payment of security for the cost of restoring or rehabilitating land on which development is located to the land's pre-development condition.

Schedule 3 Amendment of Protection of the Environment Operations Act 1997 No 156

Schedule 3[6] and [7] expand the list of electricity generating works that are scheduled activities for the *Protection of the Environment Operations Act 1997* to include certain solar electricity generating works, with the effect that an environment protection licence is required to carry out the works under that Act, Chapter 3.

Schedule 3[2] inserts proposed section 54A, requiring the Minister for the Environment to consent to the proposed transfer of an environment protection licence relating to wind or solar electricity generating works. The Minister must not consent to a proposed transfer unless satisfied the proposed licensee is a fit and proper person. **Schedule 3[1], [3], [4] and [5]** make consequential amendments.

Schedule 3[8] inserts a proposed savings and transitional provision consequent on the amendment made by Schedule 3[6] and [7].

Schedule 4 Amendment of Environmental Planning and Assessment Regulation 2021

Schedule 4[1] inserts proposed Part 4, Division 2, Subdivision 3. The proposed subdivision—

- (a) applies to development consents for electricity generating works using a solar or wind energy source, and
- (b) imposes conditions on development consents requiring that—

- (i) the materials used in the development are, so far as is practicable, reused or recycled when the electricity generating works to which the consent relates are decommissioned, and
 - (ii) when the works are decommissioned the land on which the development is located is, so far as is practicable, restored or rehabilitated to the condition the land was in before the development, and
 - (iii) an amount of security is given to the consent authority that may be used if the holder of the consent contravenes the condition referred to in subparagraph (ii), and
- (c) makes provision for the assessment and reassessment of the amount of the security, the form of the security and claims on, and use of, the security.

Schedule 4[2] inserts a savings and transitional provision consequent on the insertion of the proposed subdivision.

Schedule 4[3] makes an amendment consequential on the insertion of the proposed subdivision by Schedule 4[1].



New South Wales

Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Bill 2026 (No 2)

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Bill 2026 (No 2)

No , 2026

A Bill for

An Act to require planning for decommissioning of infrastructure in the NSW renewable energy sector; to require environment protection licences for solar energy infrastructure; to impose certain conditions on development consents relating to the decommissioning of solar and wind energy infrastructure; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Act 2026*.

3

4

2 Commencement

5

This Act commences on the date of assent to this Act.

6

Schedule 1	Amendment of Electricity Infrastructure Investment Act 2020 No 44	1
		2
[1] Section 3 Objects of Act		3
Omit “technology.” from section 3(1)(i).		4
Insert instead—		5
technology, and		6
(j) to ensure—		7
(i) renewable energy infrastructure is decommissioned in an efficient way, and		8
(ii) land on which decommissioned renewable energy infrastructure was located is appropriately remediated.		10
		11
[2] Section 7 NSW renewable energy sector board		12
Omit “manufacture and construction” wherever occurring in section 7(1) and (4)(a).		13
Insert instead “manufacture, construction and decommissioning”.		14
[3] Section 8 Plan for NSW renewable energy sector		15
Insert after section 8(1)—		16
(1A) The plan required to be prepared by the board under section 7(4)(a) must also set out how to achieve—		17
(a) the efficient decommissioning of renewable energy infrastructure, and		18
(b) appropriate remediation of land on which decommissioned renewable energy infrastructure was located.		19
		20
		21
[4] Section 8B		22
Insert after section 8A—		23
8B Amendments to plan relating to decommissioning and remediation		24
(1) As soon as practicable after the commencement of this section, the board must propose amendments to the plan relating to the matters referred to in section 8(1A) by giving written notice of the proposed amendments to the Minister.		25
		26
		27
(2) The board must, in preparing the amendments, consult the following persons or bodies—		28
		29
(a) network operators,		30
(b) landholders affected by the construction or operation of renewable energy infrastructure,		31
		32
(c) community organisations or advocates that, in the board’s opinion—		33
(i) have expertise or experience in the decommissioning of network infrastructure in the renewable energy sector, or		34
		35
(ii) represent persons affected by the manufacture, construction and decommissioning of infrastructure in the sector.		36
		37
(3) The board must, before giving written notice of the proposed amendments to the Minister, take into account the views of persons and bodies consulted under subsection (2).		38
		39
		40
(4) Section 8A(2)–(5) apply to amendments proposed under this section.		41

[5] Dictionary

Insert in alphabetical order—

remediation, in relation to land on which renewable energy infrastructure was located, means the restoration or rehabilitation of the land to the condition the land was in before the construction or operation of the infrastructure.

renewable energy infrastructure includes—

- (a) generation, storage and network infrastructure—
 - (i) that relates to the generation of electricity by solar or wind power, and
 - (ii) is constructed or operated under this Act, and
- (b) infrastructure for the generation of electricity by solar or wind power—
 - (i) that is the subject of a development consent under the *Environmental Planning and Assessment Act 1979*, and
 - (ii) whether or not the infrastructure was constructed before or after the commencement of this Act.

Schedule 2	Amendment of Environmental Planning and Assessment Act 1979 No 203	1
		2
Section 4.17A		3
Insert after section 4.17—		4
4.17A	Regulations may impose conditions relating to security	5
	Without limiting section 4.17, the regulations may—	6
	(a) prescribe conditions on development consents that require an applicant for development consent to provide security for the payment of the cost of restoring or rehabilitating land on which the development is located to the condition the land was in before the development, and	7 8 9 10
	(b) make provision for the assessment of, claims against and use of a security referred to in paragraph (a).	11 12

Schedule 3	Amendment of Protection of the Environment Operations Act 1997 No 156	1
		2
[1] Section 54 Application for transfer of licence		3
Insert after section 54(2)(a)—		4
(a1) for an application relating to the transfer of a licence to which section 54A applies—include evidence of the Minister’s consent to the proposed transfer, and		5 6 7
[2] Section 54A		8
Insert after section 54—		9
54A Ministerial consent required for transfer of certain licences		10
(1) This section applies to an application for the transfer of a licence relating to the following scheduled activities—		11 12
(a) electricity works (solar power),		13
(b) electricity works (wind farms).		14
(2) Before an application is made under section 54(1), the proposed licensee must obtain the Minister’s consent to the proposed transfer.		15 16
(3) The Minister may, on the written application of the proposed licensee—		17
(a) consent to the proposed transfer, or		18
(b) refuse the application.		19
(4) The Minister must not consent to the proposed transfer unless satisfied the proposed licensee is a fit and proper person.		20 21
(5) Before deciding an application under this section, the Minister may consult—		22
(a) the appropriate regulatory authority, and		23
(b) any other person the Minister considers relevant.		24
(6) In this section—		25
<i>proposed licensee</i> means the person to whom a licence is proposed to be transferred.		26 27
[3] Section 55 Grant or refusal of application		28
Insert after section 55(2)—		29
(2A) If the Minister has granted consent to the proposed transfer of a licence under section 54A, the appropriate regulatory authority must not refuse the application on the grounds that the person to whom the licence is proposed to be transferred is not a fit and proper person.		30 31 32 33
[4] Section 83 Fit and proper persons		34
Insert “54A(4),” after “section 45(f),” in section 83(1).		35
[5] Section 83(2)		36
Insert “or the Minister” after “The appropriate regulatory authority”.		37
[6] Schedule 1 Scheduled activities		38
Insert in alphabetical order in clause 17(1)—		39

<i>electricity works (solar power)</i> , meaning the generation of electricity from solar power.	1 2
[7] Schedule 1, clause 17(2), Table	3
Insert in appropriate order—	4
electricity works (solar power)	is the subject of a development consent granted under the <i>Environmental Planning and Assessment Act 1979</i> —
	(a) for State significant development within the meaning of that Act, or
	(b) under <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> , Chapter 2, Part 2.3, Division 4
[8] Schedule 5 Savings, transitional and other provisions	5
Insert at the end of the schedule, with appropriate part and clause numbering—	6
Part Provision consequent on enactment of Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Act 2026	7 8 9
Application of Chapter 3 to electricity works (solar power)	10
(1) Before 1 July 2026—	11
(a) a person is not required to comply with Chapter 3 in relation to the scheduled activity of electricity works (solar power), and	12 13
(b) an offence is not committed against a provision of Chapter 3 for a contravention of a provision of that chapter relating to the electricity works (solar power) activity.	14 15 16
(2) In this clause—	17
<i>electricity works (solar power)</i> has the same meaning as in Schedule 1, clause 17.	18 19

Schedule 4	Amendment of Environmental Planning and Assessment Regulation 2021	1
		2
[1] Part 4, Division 2, Subdivision 3		3
	Insert after Subdivision 2—	4
Subdivision 3	Conditions relating to solar and wind electricity generating works	5
		6
86B	Definitions	7
	In this subdivision—	8
	<i>assessed security</i> —see section 86E(1).	9
	<i>reassessment notice</i> —see section 86F(3)(b).	10
86C	Application of subdivision	11
	This subdivision applies to a development consent for electricity generating works using a solar or wind energy source that is—	12
		13
	(a) State significant development, or	14
	(b) development under <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> , Chapter 2, Part 2.3, Division 4.	15
		16
86D	Conditions relating to decommissioning	17
(1)	It is a condition of a development consent that, so far as is practicable, when the electricity generating works to which the consent relates are decommissioned—	18
		19
		20
	(a) materials used in the development are reused or recycled, and	21
	(b) the land on which the development is located is restored or rehabilitated to the condition the land was in before the development, including in relation to—	22
		23
		24
	(i) disturbances to the land created by the development, and	25
	(ii) changes to drainage patterns or flows in waterways on the land.	26
(2)	For subsection (1)(b), works relating to the restoration or rehabilitation of the land must commence within 2 years after the decommissioning of the electricity generating works.	27
		28
		29
(3)	It is a condition of a development consent that a security deposit for the assessed security is given to the consent authority in accordance with this subdivision—	30
		31
		32
	(a) before carrying out work in accordance with the development consent, and	33
		34
	(b) if, after a reassessment, the assessed security has increased—by the date specified in a reassessment notice given to the holder of the consent.	35
		36
86E	Consent authority must determine assessed security	37
(1)	A consent authority must determine the amount of the security (the <i>assessed security</i>) required for a development consent.	38
		39
(2)	The assessed security must not be more than 50% of the estimated costs of the holder of the development consent complying with section 86D(1)(b).	40
		41

(3)	In determining the assessed security, the consent authority must not take into account estimated income the holder of a development consent may receive from the reuse or recycling of materials used in the development.	1 2 3
86F	Reassessment of assessed security	4
(1)	A consent authority—	5
(a)	must reassess the assessed security every 5 years after making an assessment under section 86E(1), and	6 7
(b)	may, at any other time, reassess the assessed security.	8
(2)	A reassessment must be carried out in accordance with section 86E.	9
(3)	If, after a reassessment, the consent authority determines the assessed security has changed—	10 11
(a)	the reassessed amount is taken to be the assessed security, and	12
(b)	the consent authority must, by written notice (a <i>reassessment notice</i>), advise the holder of the consent of the change.	13 14
(4)	A reassessment notice must—	15
(a)	if the assessed security has increased—specify the date by which the holder of the consent must increase the holder’s security deposit, or	16 17
(b)	if the assessed security has decreased—specify that the holder of the consent may reduce the holder’s security deposit.	18 19
86G	Form of security	20
(1)	A security deposit may be given to the consent authority by—	21
(a)	depositing the assessed security with the consent authority, or	22
(b)	giving a guarantee that is—	23
(i)	from a body regulated by APRA, and	24
(ii)	satisfactory to the consent authority.	25
(2)	For subsection (1)(a)—	26
(a)	50% of the assessed security must be deposited before carrying out work in accordance with the development consent (the <i>initial deposit</i>), and	27 28 29
(b)	the balance, including an increase arising from a reassessment, must be deposited in 4 equal instalments at 5 year intervals after the initial deposit.	30 31 32
(3)	In this section—	33
	<i>body regulated by APRA</i> has the same meaning as in the <i>Australian Prudential Regulation Authority Act 1998</i> of the Commonwealth.	34 35
86H	Claim on and use of security deposit	36
(1)	The consent authority may make a claim on or realise a security deposit if satisfied the holder of a consent has contravened the condition imposed by section 86D(1)(b).	37 38 39
(2)	Before making a claim on or realising a security deposit, the consent authority must, if practicable, give written notice of the proposed action—	40 41
(a)	the holder of the development consent, or	42
(b)	if the development consent is revoked or lapses under the Act—the former holder of the development consent.	43 44

(3)	The consent authority may use money obtained under a security deposit to recover or fund the cost of restoring or rehabilitating the land on which the development was located to the condition the land was in before the development.	1 2 3 4
(4)	If a claim is made against a security deposit under this section, the balance of the security deposit remaining after meeting the costs referred to in subsection (3) must be refunded to, or at the direction of, the person who gave the security.	5 6 7 8
(5)	If no claim is made against a security deposit under this section, the deposit must be refunded to, or at the direction of, the person who gave the security.	9 10
[2]	Schedule 6 Savings, transitional and other provisions	11
	Insert at the end of the schedule, with appropriate part and section numbering—	12
Part	Provision consequent on Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Act 2026	13 14 15
	Application of amendments	16
(1)	An amendment made by the amending Act does not apply to a development application made, but not finally determined, before the commencement of the amendment.	17 18 19
(2)	An amendment made by the amending Act applies to a development consent granted before the commencement of the amendment if the consent is modified under the Act, Part 4, Division 4.9 after the commencement of the amendment.	20 21 22 23
(3)	For subsection (2)—	24
(a)	Part 4, Division 2, Subdivision 3 applies, subject to paragraph (c), from the date of the modification of the development consent, and	25 26
(b)	the consent authority must, in modifying the development consent, specify the date by which the holder of the consent must give the consent authority a security deposit for the assessed security, and	27 28 29
(c)	the requirement imposed under paragraph (b) prevails over section 86D(3)(a).	30 31
(4)	In this section—	32
	<i>amending Act</i> means the <i>Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Act 2026</i> .	33 34
[3]	Schedule 7 Dictionary	35
	Insert in alphabetical order—	36
	<i>assessed security</i> , for Part 4, Division 2, Subdivision 3—see section 86B.	37
	<i>reassessment notice</i> , for Part 4, Division 3, Subdivision 3—see section 86B.	38