TREASURY AND ENERGY LEGISLATION AMENDMENT BILL 2022
STATEMENT OF PUBLIC INTEREST

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

Schedule 1 - Government Sector Finance Act 2018 Amendments
In the Auditor-General's 2021 Report on State Finances, the Auditor-General reported that "NSW Treasury lacks a framework to monitor and provide assurance to ministers that they are in compliance with their appropriation authority". This Bill seeks amendments to the *Government Sector Finance Act 2018* to clarify the authority by which relevant Ministers and their delegates may make cross-appropriation payments.

Schedule 2 – Shared Equity Scheme
This Bill provides the legislative framework to establish and administer the NSW Government's shared equity scheme. The Scheme has been targeted towards single parents, older singles, and first home buyers who are teachers, nurses or police officers with lower incomes and who may not be able to access home ownership without government support. Singles with up to $90,000 of gross income and couples with up to $120,000 of gross income will be eligible. Applicants will also be subject to purchase price thresholds based on location.

Schedule 3 - Energy Industries Superannuation Scheme (EISS) and Cbus Merger
The Energy Industries Superannuation Scheme (EISS) – set up by the NSW Government – has resolved to merge with Cbus and the two funds propose to undergo a successor fund transfer.

The Bill amends the *Superannuation Administration Act 1996* to provide that a Regulation can be made to enable a successor fund transfer of members and their benefits from a government superannuation scheme to a successor fund.

Schedule 4 - Energy legislation amendments
These amendments seek to resolve the administration and implementation issues of the Energy Security Safeguard after working closely with the scheme administrator – IPART.

It also seeks to exempt the *Electricity Infrastructure Investment Regulation 2021* (EII Regulation) from automatic repeal after 5 years to provide market and network certainty, Finally, it remedys the technical historical breach relating to the payment of moneys under the *Energy and Utilities Administration Act 1987* (EUA Act).

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

Schedule 1 - Government Sector Finance Act 2018 Amendments
There is a strong public interest in ensuring that any expenditure of taxpayer funds occurs in strict conformance with the authority of an appropriation made by the Parliament, which is underpinned by a robust and accountable financial management framework. The objective of the Bill is to enhance that framework by eliminating the risk of Ministers or their delegates inadvertently breaching their appropriated expenditure authority.

It is also in the public interest that expenditures made in past years in the usual course of government business for public purposes are not placed at risk of invalidation.

Schedule 2 – Shared Equity Scheme
The objective of the NSW Shared Equity Scheme is to enable greater access to home ownership for certain lower income cohorts. These shared equity participants are expected to be those who would be otherwise unlikely to achieve home ownership. This should reduce the rate of social and economic disadvantage that is associated with households not owning their own home. Access to home ownership is an issue of enduring public interest.

Schedule 3 - Energy Industries Superannuation Scheme (EISS) and Cbus Merger
The object of the Bill is to ensure that government superannuation schemes can pursue a form of a merger that is most beneficial to its members and to avoid any unintended consequences arising out of the merger.

Schedule 4 - Energy legislation amendments
The objectives of the amendments are to improve the operation of the Energy Security Safeguard schemes and ensure that the regulatory framework for the Electricity Infrastructure Roadmap is predictable and certain.

Further, it is not appropriate in current times that all money received by the Treasury must be paid into and out of the Energy Administration Account Special Deposit Account and such an outcome would be at odds with the original policy intent of section 35.

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

Schedule 1 - Government Sector Finance Act 2018 Amendments
One legislative and three non-legislative options have been considered by NSW Treasury in consultation with agencies and the NSWAO to address the Auditor-General's above recommendation. As a result of this consultation, NSW Treasury has determined that the legislative solution should be pursued because it is the most enduring solution and the only option that resolves the issue within the authorisation framework.

Schedule 2 – Shared Equity Scheme
Alternate policy settings that were considered include a broader scheme with different income levels, breadth of eligible cohorts and other factors. This had drawn on the shared equity schemes that have been implemented in other States, including Tasmania, Victoria, Western Australia and South Australia. Maintaining the status quo with no shared equity scheme was also considered.

Schedule 3 - Energy Industries Superannuation Scheme (EISS) and Cbus Merger
A successor fund transfer of EISS cannot occur without legislative change.

Schedule 4 - Energy legislation amendments
The reforms cannot be completed without legislative change.

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

Schedule 1 - Government Sector Finance Act 2018 Amendments
The pros of the non-legislative options considered could be implemented more quickly, however they do not address the legal issues, do not address potential retrospective issues and may create significant ongoing administrative costs.

Schedule 2 – Shared Equity Scheme
The scheme targets lower-income households who may never otherwise be able to achieve home ownership and brings ownership forward for those who would otherwise need to wait significantly longer than average to buy.

A larger scheme with broader eligibility risks exacerbating housing demand pressures and would have a higher budget cost. Any future expansion of the scheme would be subject to the evaluation.

Schedule 3 - Energy Industries Superannuation Scheme (EISS) and Cbus Merger
If the legislative amendments are not made, government superannuation schemes will have to merge through alternative mechanisms which creates additional ongoing administrative costs and would therefore be to the detriment of members.

Schedule 4 - Energy legislation amendments
The pros and cons of the reforms were considered at length through the Energy Security Safeguard Consultation Paper and independent advice on best practice administration, with the government committing to the final option in the Energy Security Safeguard Position Paper.

If the legislative amendments relating to the automatic repeal of the Electricity Infrastructure Roadmap regulations are not made, it could result in a less effective price outcome for consumers as the cost of this risk may be priced into the contractual arrangements underpinning Roadmap investment.

If amendments to the EUA Act are not made, all moneys received by the Treasury must be paid into the Energy Administration Account Special Deposit Account rather than the Consolidated Fund or the Treasury will be in breach of the EUA Act.

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

Schedule 1 - Government Sector Finance Act 2018 Amendments
The proposed amendments are recommended to be passed by 31 December 2022 to meet NSW Treasury's commitment to address the Auditor-General's recommendation in relation to this finding.

Schedule 2 – Shared Equity Scheme
The Government is working toward starting the scheme as early as possible in 2023. The Treasurer will establish the scheme and issue policy guidelines, while the Chief Commissioner of State Revenue will administer the scheme. The legislation in this Bill puts these arrangements in place.

Schedule 3 - Energy Industries Superannuation Scheme (EISS) and Cbus Merger
The policy will take effect as soon as the Bill becomes law. From then, the Governor, on recommendation by the Treasurer, can make regulations to transfer members and their benefits from a government superannuation scheme to a successor fund.

The Bill is introduced with the intention of making Superannuation Administration (Cbus Transitional Provisions) Regulation 2022 (the Proposed Regulation) which may be made under the new Regulation-making power in the Bill. Once in effect, the Proposed Regulation will enable the merger between EISS and CBUS via a successor fund transfer.

Schedule 4 - Energy legislation amendments
The amendments will take effect as soon as the Bill becomes law. At that point, the Scheme Administrator will be able to waive or reduce application fees for scheme participants. Scheme participants in the Peak Demand Reduction Scheme and Renewable Fuel Scheme will also be able to register certificates in accordance with the policy intent.

The exemption of the automatic repeal of the Electricity Infrastructure Roadmap regulations will take effect as soon as it becomes law. The Consumer Trustee has already opened the first competitive tender process for Long Term Energy Service Agreements and the Energy Corporation is part-way through procurement processes for network infrastructure projects which will require long term revenue determinations by the regulator.

The amendment to s 35 of the EUA Act will have retrospective effect from 1999, this change will remedy the current and historical technical breach by Treasury.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?
Schedule 1 - Government Sector Finance Act 2018 Amendments
Yes, the stakeholder consultations have included all cluster legal and finance departments, as well as consultation with the Auditor-General and the Crown Solicitor. Stakeholders have been consulted and their views considered throughout the process from the consultation paper and review of the draft bill.

Schedule 2 – Shared Equity Scheme
The Department of Planning and Environment, Department of Education, NSW Police, NSW Health were consulted in relation to policy settings for the shared equity scheme.

Implementation stakeholders expected to be affected have been consulted, including the NSW Law Society and PEXA (which facilitates property settlements).

Schedule 3 - Energy Industries Superannuation Scheme (EISS) and Cbus Merger
Treasury has been working with Energy Industry Superannuation Scheme (EISS) which is a former government superannuation scheme that will be affected by the Bill. They are currently undergoing a merger with Construction and Building Union Superannuation Fund (Cbus), who also fully support the legislative amendments.

Schedule 4 - Energy legislation amendments
The Government consulted widely in preparing these amendments including with IPART, Energy Corporation of NSW and AEMO Services Limited.