



## Legislation Review Committee

Correspondence received in response to the Legislation Review  
Committee Digest No. 24/57 – 17 November 2020



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**The Honourable Matt Kean MP**  
Minister for Energy and Environment

Your ref: LAC20/007.15  
Our ref: MD20/8259

Ms Felicity Wilson MP  
Chair  
Legislation Review Committee  
Parliament of New South Wales  
SYDNEY NSW 2000

By email: [legislation.review@parliament.nsw.gov.au](mailto:legislation.review@parliament.nsw.gov.au)

Dear Ms Wilson

*Felicity*

Thank you for your correspondence on behalf of the Legislation Review Committee regarding the concerns it had with the proposed Electricity Infrastructure Investment Bill 2020, now the *Electricity Infrastructure Investment Act 2020*, the Act having received assent on 2 December 2020.

This historic legislation seeks to improve the affordability, reliability, security and sustainability of electricity supply in NSW. It does this by creating a framework that encourages private investment in new electricity generation, storage and network related infrastructure, while fostering local community support for investment in a way that encourages economic development and manufacturing.

In relation to the Committee's concerns I have provided some information below which may assist:

1. *information gathering powers* - as the Committee acknowledged, there are a number of safeguards included in the legislation to ensure that information obtained through the new powers is protected. These safeguards were designed, taking into account the sensitivity of the information being sought. In addition, as you noted in your report, these new powers are essential to the Act's framework to ensure the monitor can assess whether there is a breach of the energy security target.
2. *the proposed penalty for failing to comply with a request for information or providing false or misleading information* - it is standard practice in the NSW Statute Book to have offences and penalties to ensure compliance with this type of requirement. The penalties in the Act align with existing offences in the *Electricity Supply Act 1995*.
3. *commencing the Act by proclamation* - as the Committee acknowledged, given the nature of the changes, flexibility is required to enable the new framework to be effectively implemented. I further note that on 9 December 2020, the bulk of the legislation was substantially commenced.
4. *ministerial declarations* - the declarations are critical to the new framework and it is important to note specified matters must be taken into account prior to making a declaration.
5. *deferral of matters to the regulations - creation of offences and rules* - as the Committee acknowledged there is a need to delegate some matters to the regulations, particularly where they are technical in nature and require more detail. As the new framework requires regulations to support it, it was not possible to have the Act cover all potential



offences under the new framework. For example, some of these will depend on the nature of the obligations created through the regulations. These will then need specific offences to ensure compliance with them.

In addition, it is common in the energy framework for the regulations to deal with external material like rules. This will give participants important information about the operation of the framework and the framework for making these rules needs to be more flexible to allow it to work efficiently and effectively.

6. *wide powers of delegation* - having wide powers of delegation is not uncommon in the NSW Statute Book. It is appropriate to have broad powers of delegation to allow the new framework's efficient and effective operation.

I trust that the above information addresses the Committee's concerns. Should you or members of the Committee have any further questions in relation to this matter, please contact Teresa Hislop, Acting Director, Policy and Legislation, Department of Planning, Industry and Environment on 9274 6210 or at [teresa.hislop@planning.nsw.gov.au](mailto:teresa.hislop@planning.nsw.gov.au).

Yours sincerely



**Matt Kean MP**

Minister for Energy and Environment

23.2.21