

23 July 2024

The Hon. Penny Sharpe MLC
Minister for Climate Change, Minister for Energy
Department of Climate Change, Energy, the Environment and Water
New South Wales Government

Submitted via: energy.consult@dpie.nsw.gov.au

Dear Minister Sharpe,

Orderly Exit Management Framework Draft Exposure Bill and Rule

Nexa Advisory welcomes the opportunity to provide comment on the Orderly Exit Management (OEM) Framework Draft Exposure Bill and Rule.

We are pleased to see some transparency and governance improvements in this draft.¹ However, the design of the OEM Framework still has fundamental flaws that have not been addressed. This is a missed opportunity for the energy sector, that could potentially be used for future fossil fuel asset closures including gas.

OEM Framework does not provide certainty needed

As highlighted in our previous submission² and other submissions such as those by the CEIG³ and IEEFA⁴, certainty on the closure dates of the coal-fired power stations necessitates a balanced approach, combining both incentives and regulatory measures, to ensure a smooth and effective transition. This is critical to providing the certainty and other signals needed to enable investment in appropriate market solutions that will support reliability.

Nexa Advisory has previously noted that there is a critical need in the National Electricity Market (NEM) for an orderly exit mechanism that genuinely ensures coal power stations close on schedule.

The OEM Framework is not an orderly exit mechanism. It is a legislative instrument to manage earlier-than-anticipated closures of System Significant Generators (SSG). It allows a jurisdictional minister to mandate the prolonged operation of an SSG.

As such, the OEM Framework as set out in the draft exposure bill does not resolve the ongoing uncertainty around the closure of coal power stations. The existence and potential of use the OEM Framework by a jurisdictional minister presents a significant challenge to investors in new renewable generation and batteries⁵.

Additionally, we note that the OEM Framework is essentially a legislative instrument for New South Wales (NSW) only. Tasmania and South Australia do not have any coal-fired power stations. The Victorian Government has already come to agreements with the owners of its key

¹ <https://www.energy.gov.au/sites/default/files/2024-06/oemf-response-to-stakeholder-submissions.docx>

² <https://www.energy.gov.au/sites/default/files/2024-03/OEMF%20submission%20-%20Nexa%20Advisory.pdf>

³ <https://www.energy.gov.au/sites/default/files/2024-03/OEMF%20submission%20-%20CEIG.pdf>

⁴ <https://www.energy.gov.au/sites/default/files/2024-03/OEMF%20submission%20-%20IEEFA.pdf>

⁵ https://ieefa.org/sites/default/files/2022-08/Theres-a-Better-Way-to-Manage-Coal-Closures-Than-Paying-to-Delay-Them_September-2021.pdf

coal-fired assets in the La Trobe valley.^{6,7}The coal closure regime in Queensland is set out in the Energy Roadmap.⁸

The NSW Government has already agreed terms with Origin Energy for the unwarranted extension⁹ to the life of the aging Eraring coal-fired power station until August 2027.¹⁰

Therefore, the focus of the Framework should be a mechanism that provides a clear and enforceable timetable for coal-fired plant closures that would increase the certainty needed to ensure the clean energy transition can progress at pace.

The revisions that have been made to the OEM Framework have not resolved the key issues raised by Nexa Advisory and other key stakeholders. These include:

Transparency

The lack of transparency of the original OEM Framework was a concern for many stakeholders. While some additional transparency may be provided, conditional on a Mandatory Operation Directive (MOD) being issued, the jurisdictional minister still has total discretion on whether the basis for the decision and the impacts of the decision will be made public (Rule 4B.E.7). For instance, AEMO advice on alternative solutions to extending the life of a coal-fired plant may be published only if a MOD is issued.

Further, the revisions to the bill that would support additional analysis to underpin a decision to prolong the life of a coal-fired power station are at the discretion of the jurisdictional minister, including:

- **Cost benefit analysis (CBA)**
Without a CBA it will not be possible to determine if the benefits of extending the operation of a SSG outweigh the costs to customers.
- **Emissions impact assessment**
Understanding the impact on emissions is essential to ensure that the progression to net zero is managed.
- **Systems need assessment (Rule 4B.C.5)**
While a limited ‘desktop’ study reduces the effort required by AEMO, it results in the risk that customers will be paying for extensions when it is not needed.
- **Exploration of alternative solutions**
As with the case for the extended operation of Eraring power station, there are many other alternatives that would increase reliability without relying on high carbon generation¹¹.

⁶ <https://www.premier.vic.gov.au/statement-minister-energy>

⁷ <https://www.premier.vic.gov.au/agreement-secures-transition-loy-yang>

⁸ <https://www.energyandclimate.qld.gov.au/energy/energy-jobs-plan/about-plan>

⁹ https://ieefa.org/sites/default/files/2022-08/Theres-a-Better-Way-to-Manage-Coal-Closures-Than-Paying-to-Delay-Them_September-2021.pdf

¹⁰ <https://www.environment.nsw.gov.au/news/nsw-government-secures-2-year-extension-to-eraring-power-station>

¹¹ <https://nexaadvisory.com.au/web/wp-content/uploads/2023/07/Nexa-Advisory-Eraring-can-be-closed-on-schedule-Report-24072023.pdf>

Where the jurisdictional minister decides to undertake additional analysis, it will be shared publicly. However, key information, including the ability of the MOD generator to technically deliver improved reliability (through the prescribed information provisions) and the contractual arrangements particularly the cost that customers will pay for the extension, will not be shared transparently.

Transparency is fundamental to ensuring that consumers are getting value and accountability for the costs they will have to bear, and this imperative should override ‘commercial-in-confidence’ sensitivities.

Cost recovery

Customers have not been consulted on their willingness to pay for increased reliability beyond the Value of Customer Reliability (VCR) process last undertaken by the AER in 2019 and adjusted in 2023 against the Consumer Price Index.¹²

The OEM Framework will not only require customers to pay for the extension of coal-fire power generation through their electricity bills, but will force up wholesale electricity prices due to government intervention in the market that will impact current generators¹³, further exacerbating bill shocks.

Aside from the technical issues with the recovery mechanism (section 118AZD) that passes through the operational costs of an extended SSG via Distribution Network Service Providers (DNSPs)¹⁴, it is not clear why the capped cost arrangement that has been adopted by the NSW Government and Origin Energy for the extension of Eraring power station could not be used in the OEM Framework.

The arrangements with Origin Energy only minimise the costs to customers from operational losses. However, Nexa Advisory urges the NSW Government and other energy ministers seeking to adopt this mechanism to reevaluate the cost recovery mechanism to ensure minimum impact on consumers and taxpayers.

Additionally, it is not clear whether electricity customers will be liable for the cost of the operators’ compliance with remediation requirements when the extended SSG final retires (Section 118AL). This needs to be clarified, with all remediation costs to be borne by the operator, not customers.

Nexa Advisory continues to recommend that the government should fully fund the cost of any fossil fuel power station extension that is established in a jurisdiction to provide additional reliability above what is provided for under both the Reliability Standard and the Interim Reliability Measure and beyond what has been determined as the VCR for NSW.¹⁵ This avoids placing additional costs on already over-burdened electricity consumers.¹⁶

¹² <https://www.aer.gov.au/industry/registers/resources/reviews/values-customer-reliability-2019>

¹³ https://media.licdn.com/dms/document/media/D5610AQGMJnASL_iMyA/ads-document-pdf-analyzed/0/1714547724974?e=1721260800&v=beta&t=Knr_hpwOROCW-aUb1gklpRNxR-4RLGwFmmVsqnIseYQ

¹⁴ <https://www.energy.gov.au/sites/default/files/2024-06/oemf-response-to-stakeholder-submissions.docx>

¹⁵ <https://www.aer.gov.au/system/files/2024-06/2024-06-05%20AER%20-%20Revised%20draft%20determination%20-%202024%20VCR%20methodology.pdf>

¹⁶ <https://www.aer.gov.au/system/files/2024-06/AER%20-%20Quarterly%20retail%20performance%20report%20-%20January%20to%20March%202024.pdf>

Perverse incentives

Stakeholders identified that a SSG may bring forward its closure to trigger beneficial financial arrangements under the OEM Framework, which include site remediation costs.¹⁷ The possibility that an ‘alternative solution’ is enough of a deterrent to ensure that an SSG would not do this is insufficient protection for customers.

Additionally, where the operator of an SSG brings forward the closure of its plant less than 30 months (2.5 years), there is no requirement for a system needs assessment (Section 118AZE). This means that if the operators of an SSG opt to close it within this window, there will be no scrutiny of the reliability need to retain the SSG. This perverse incentive needs to be resolved to ensure that customers are not funding the last years of operation and potentially the remediation costs once the coal-fired power station finally retires.

NSW Eraring Exit is missing- Coal extensions are not a long-term solution

Since the publication of the OEM Framework consultation paper in mid-December 2023, a significant pipeline of projects has been supported by the NSW Long-Term Energy Service Agreement¹⁸ and federal Capacity Investment Scheme (CIS)¹⁹. Tender Round 4 of the New South Wales scheme resulted in 312 MW of renewable energy generation, while the LTESA Tender Round 5 and the CIS Generation Tender 1 are expected to deliver 1 GW of Long-duration storage (LDS) and 2.2 GW of renewable energy generation respectively.

The success of these tenders demonstrates strong private investor appetite in the state. However, the uncertainty of delayed coal exit will have significant commercial implications for these projects. The NSW Government must ensure the exit of Eraring coal power station can be comfortably managed with no further extensions.

The agreement between NSW Government and Origin Energy has an expiry date. However, a ‘coal exit’ plan has not yet been released to provide certainty that the Eraring power station will not be extended beyond the initial two years, to the optional term of four years.

Nexa Advisory continues to call for the NSW Government to shift its focus on the following:

1- Expedited planning and environmental approvals is critical

While there have been attempts to expedite planning and environment approvals in NSW, more effort is required. It remains one of the most difficult states to progress a renewable energy project.²⁰ This has resulted in significant delays to the clean energy transition that is further compounded by the delays in building the new transmission lines to connect new, low-cost clean renewable generation and storage.²¹

2- Delivering transmission is key

Our report released earlier this week²², reveals that delays in building energy transmission infrastructure will lead to higher electricity bills for both households and businesses, compromise energy reliability and jeopardise emissions reduction targets.

¹⁷ <https://www.energy.gov.au/sites/default/files/2024-03/OEMF%20submission%20-%20CEIG.pdf>

¹⁸ <https://legislation.nsw.gov.au/view/html/inforce/current/act-2020-044>

¹⁹ <https://www.dcccew.gov.au/energy/renewable/capacity-investment-scheme>

²⁰ <https://www.smh.com.au/environment/climate-change/a-not-so-mighty-wind-nsw-lags-in-renewable-energy-approvals-20240530-p5jhuh.html>

²¹ https://nexaadvisory.com.au/web/wp-content/uploads/2024/06/Nexa-Advisory-Report_We-Plan-and-then-Dont-Build.pdf

²² [Nexa-Advisory-Consumer-Cost-of-Transmission-Delays-Report-July-2024.pdf \(nexaadvisory.com.au\)](https://nexaadvisory.com.au/web/wp-content/uploads/2024/06/Nexa-Advisory-Consumer-Cost-of-Transmission-Delays-Report-July-2024.pdf)

The research shows the cost impacts of the delays are most significant in NSW. Residential consumers there could face up to \$1,100 in additional costs if transmission project delays continue at the average of three years observed in recent years. Small businesses in NSW could also pay up to \$7,716 a year more. This increases to \$24,124 with a seven-year delay. That means that transmission delays are also likely to have broader knock-on inflationary impacts across the economy.

The Central West Orana Renewable Energy Zone (REZ) was declared in 2021²³ and was originally planned to be delivered next year (2025) but has now been delayed until 2028.²⁴ The New England REZ was also declared in 2021²⁵ but won't be delivered until 2031²⁶. The continuing delays to new transmission and the overall clean energy transition drives up electricity bills.^{27,28}

While the Capacity Investment Scheme (CIS)²⁹ is successfully driving investment in new renewable generation and storage, this is of little benefit if the transmission is not also prioritised.

Nexa Advisory is calling for coordination and accountability between federal and state energy ministers to deliver the nation-building transmission infrastructure required. This includes accountability on the delivery dates firmed up in the Renewable Energy Target Agreements or other agreements such as the CIS.

NSW must also prioritise contestable transmission delivery arrangements outside of the REZ arrangements.^{30 31}

3- Commercial and Industrial DER is a win-win

As highlighted in several Nexa Advisory reports, there are a number of other short-term solutions that can be progressed while we are building the large-scale infrastructure. These include:

- Commercial and industrial (C&I) demand-side flexibility³²: there is untapped potential in demand-side participation in NSW that should be an urgent focus. The changes to the Peak Demand Reduction Scheme have resulted in some improvements but interaction with the Wholesale Demand Response Mechanism remains a huge barrier to progress.
- C&I rooftop solar PV and batteries³³: our report shows that while NSW leads on residential rooftop solar across the states, it lags behind on C&I opportunities to

²³ <https://www.energyco.nsw.gov.au/cwo-rez>

²⁴ https://nexaadvisory.com.au/web/wp-content/uploads/2024/06/Nexa-Advisory-Report_We-Plan-and-then-Dont-Build.pdf

²⁵ <https://www.energyco.nsw.gov.au/ne-rez>

²⁶ <https://aemo.com.au/-/media/files/major-publications/isp/2024/2024-integrated-system-plan-isp.pdf?la=en>

²⁷ <https://nexaadvisory.com.au/web/wp-content/uploads/2024/05/Eraring-closure-extension-will-cost-consumers-Nexa-Advisory-19052024.pdf>

²⁸ <https://nexaadvisory.com.au/web/wp-content/uploads/2024/07/Nexa-Advisory-Consumer-Cost-of-Transmission-Delays-Report-July-2024.pdf>

²⁹ <https://www.dcceew.gov.au/energy/renewable/capacity-investment-scheme>

³⁰ https://nexaadvisory.com.au/web/wp-content/uploads/2023/06/Nexa-Advisory_Transmission-Contestability-in-Australia-Research-Report-June-2023.pdf

³² <https://nexaadvisory.com.au/web/wp-content/uploads/2024/02/Nexa-Advisory-Report-Accelerating-CI-demand-response-in-NSW.pdf>

³³ <https://nexaadvisory.com.au/web/wp-content/uploads/2024/06/Accelerating-CI-rooftop-and-batteries-is-a-win-win-Discussion-paper.pdf>

leverage distributed energy resources to both reduce energy costs and provide additional responsive capacity and flexibility in the market.

We encourage the NSW Government to actively explore these ‘win-win’ options with urgency.

If you would like to discuss any of the issues raised in this submission, please contact me.

Yours Sincerely

Stephanie Bashir

CEO and Principal
Nexa Advisory

About Nexa Advisory

Nexa is a 'for purpose' advisory firm. We work with public and private clients including renewable energy developers, investors and climate impact philanthropists to help them get Australia's clean energy transition done.

We are a team of experienced specialists in energy market, policy and regulation design, stakeholder engagement, and advocacy.

Nexa Advisory stands at the nexus of the energy sector's complex web of stakeholders. We support and direct their dialogue so as to remove the roadblocks to the transition. We have a track record in policy creation, advocacy, political risk assessment, and project delivery. We are holistic in our approach and deliver solutions with people in mind, and commercial intent.

Our unwavering focus is accelerating the clean energy transition in a way that provides secure, reliable, and affordable power for consumers of all types.