

2 February 2024

Hon. Chris Bowen MP
Minister for Climate Change and Energy
Commonwealth Government

Hon. Penny Sharpe MLC
Minister for Climate Change, Energy, and Environment
NSW Government

Lodged via email to: energy.consult@dpie.nsw.gov.au

Dear Ministers,

Response to the NSW and Commonwealth Government's consultation paper on Orderly Exit Management Framework

The Clean Energy Investor Group (CEIG) welcomes the opportunity to provide feedback on the NSW and Commonwealth Governments' consultation paper on the Orderly Exit Management Framework (The OEM Framework) published in December 2023.

CEIG represents domestic and global renewable energy developers and investors, with more than 16GW of installed renewable energy capacity across more than 76 power stations and a combined portfolio value of around \$38 billion. CEIG members' project pipeline is estimated to be more than 46GW across Australia. CEIG strongly advocates for an efficient transition to clean energy with a focus on the stakeholders who can provide the cost-effective capital required for this transition.

Key Points

- **CEIG supports the implementation of an OEM Framework** to facilitate a transparent and coherent process for managing the retirement of thermal generators. **However, CEIG does not support the proposed design of the OEM Framework.**

- **CEIG recommends that the OEM Framework be structured in a way:**
 - that avoids deterring new investments and incorporates robust safeguards to shield consumers from unnecessary costs.
 - That cannot be exploited by thermal generators, preventing unfair opportunities for incumbents to seek compensation at consumers' expense
- CEIG asks Ministers to consider adding a **mechanism within the OEM for Ministers to proactively guide thermal generator closure dates in line with a 1.5 degrees ambition** if the market does not volunteer it. CEIG presents both the advantages and disadvantages of such a proposal in its submission.
- The current design of the OEM Framework **does not offer substantial additional certainty for investors** and could even amplify uncertainty for renewable energy investors.
- CEIG is concerned over the **potential for thermal generators to expedite their closure dates to trigger the OEM Framework to increase their likelihood of government compensation** and recommends that the government assess and establish mechanisms to prevent this risk as they **threaten the effectiveness of the OEM Framework**.
- Postponing the closure of thermal generators would **jeopardise power affordability, reliability, and security**, as older thermal facilities are unreliable and costly.
- CEIG believes that a heightened focus should be on **streamlining factors that can materially impact the assessment and approval of clean energy projects**, including the assessment of biodiversity, visual, noise and vibration impacts, cultural heritage, and land and transmission components.

Feedback on detailed design (notwithstanding CEIG's lack of support for current OEM design)

- Stage 1:
 - CEIG contends that the **trigger for the OEM Framework is far too easily reached**, providing generous timeframes that could potentially encompass a majority of thermal generators.
- Stage 2:
 - **CEIG strongly supports the search for alternative solutions** within the NEM to address identified shortfalls and strongly **urges the government to consider making additional factors mandatory in the assessment**, such as:
 - Policy options and market assessments
 - Comprehensive cost assessments
 - Technical and financial due diligence reports
 - State emission reduction objectives
 - CEIG **strongly recommends that AEMO conducts a mandatory comprehensive search of alternative options**, encompassing all technologies that includes a **public call for industry to offer alternative solutions**.
- Stage 3:

- CEIG emphasises the **importance of performance obligations** in OEM contracts, urging stringent penalties for non-compliance to **prevent generators from seeking compensation without fulfilling commitments**.
- If it is determined that a thermal generator's closure date must be modified, the inclusion of a **transparent and thoroughly justified timeline** is critical.
- CEIG contends that **contract terms should be transparent and accessible to the market**.
- Stage 4:
 - Considering the challenging economic conditions affecting the cost of living in Australia, **CEIG recommends that the relevant jurisdictional government bear the OEM Framework costs through its budget**.
 - Should the government opt for consumer cost recovery, **CEIG supports cost recovery from TNSPs instead of DNSPs** to capture all consumers benefiting from this mechanism.
 - **CEIG does not support consumers bearing incremental costs, especially for site remediation through the OEM Contribution**.

GENERAL COMMENTS

CEIG acknowledges the NSW Government's role in shaping the OEM Framework and thanks them for their leadership as well as the Energy and Climate Change Ministerial Council (ECMC) for bringing this issue to the forefront.

CEIG supports the implementation of an OEM Framework to facilitate a transparent and coherent process for managing the retirement of thermal generators. Clarity regarding thermal generator closure dates is crucial for boosting investor confidence. CEIG also supports the implementation of a jurisdiction opt-in mechanism, recognising that the potential applicability of the OEM Framework extends to most states due to the inclusion of gas within its scope.

CEIG acknowledges the governments' concerns around delays in the buildout of transmission while recognising the potential for governments to play a more proactive role in expediting this process. CEIG aligns with the Framework's objective to ensure supply reliability during the transition. However, CEIG emphasises the need to balance energy security and reliability concerns with the risk of excessively prolonging the operations of thermal generators.

Nonetheless, CEIG does not support the proposed design of the OEM Framework and instead, proposes that the OEM Framework should:

- Be structured in a way that avoids deterring new investments and incorporates robust safeguards to shield consumers from unnecessary costs. This should involve a heightened focus on evaluating whether innovation and clean technologies can effectively address concerns related to reliability.
- Ensure that the OEM Framework cannot be exploited by thermal generators,

preventing unfair opportunities for incumbents to seek compensation at consumers' expense.

Adding a pro-active mechanism for Ministers to drive retirement dates

Achieving decarbonisation and meeting Australia's 1.5-degree commitment remains feasible, unlocking investment opportunities across all jurisdictions while maintaining the security and reliability of the National Electricity Market (NEM)¹. Investors will respond positively if governments establish the appropriate frameworks.

The government could consider adding a pro-active mechanism for Ministers to influence retirement dates; we present both the advantages and disadvantages associated with such a proposal:

1. Arguments in support of implementing a pro-active mechanism for Ministers to influence retirement dates:
 - a. Governments could adopt a more proactive stance where they are in control. They could drive the transition, champion a 1.5-degree ambition, and take the lead in driving transmission investments. The OEM Framework should align with this mindset to seize those opportunities;
 - b. Extends beyond merely serving as a mechanism for prolonging thermal generation. It could empower Ministers to proactively coordinate and expedite thermal retirements as a means of implementing the ISP.
 - c. In later stages of the transition, Ministers might consider leveraging the OEM Framework to expedite the closures of the last remaining thermal generators if they become obsolete and their owners are unwilling to retire them voluntarily.
 - d. The OEM Framework should possess the flexibility and potential to assist jurisdictions in achieving their emission reduction targets if Australia is to meet its 1.5-degree commitment under the Paris Agreement.

2. Arguments against a pro-active mechanism to influence retirement date include:
 - a. The implementation of such a mechanism could be challenging.
 - b. There is concern that such a proactive approach might encroach upon the property rights of generators.
 - c. Thermal plant retirements are likely to be driven by market forces through the increasing installation of wind, solar and storage assets, and by governments' renewable energy targets and their associated commercial schemes. Consequently, this form of intervention may not be necessary.

Impact of OEM on long-term investor certainty

CEIG wishes to highlight that the current proposal for the OEM Framework does not offer substantial additional long-term certainty for investors. The authority over thermal plant closure dates predominantly remains with thermal generators, and there is still a lack of

¹ Clean Energy Investor Group & Baringa (Apr-23) [Accelerating our energy transition with a credible 1.5°C scenario](#)

proactive government involvement in this domain. Moreover, there are no transparency measures stipulating that closure dates cannot be set imminently, leaving long-term uncertainty regarding when thermal generators might activate the OEM Framework and the subsequent closure date determination.

In fact, the potential incentivisation of generators to delay triggering the Framework and the absence of complete disclosure of the commercial terms shielding thermal generators from market price signals could amplify long-term uncertainty for renewable energy investors.

Risks of delaying thermal generator closures

Postponing the closure of thermal generators would jeopardise power affordability, reliability, and security, as older thermal facilities are unreliable and costly². It would also damage investor confidence and create significant downside risk for investors, at a time when it is already difficult to go from pipeline to committed project. Such delays could undermine both the State's climate policies and the Federal Government's objectives of achieving 82% renewable energy by 2030 and a legislated 43% reduction in emissions. These factors merit consideration during the search for alternative solutions under the OEM Framework.

Focus on removing barriers to renewable energy development

While the government may not have control over thermal generators bringing forward their closure dates, an area within their control is addressing planning and environmental approval challenges. CEIG believes that a heightened focus should be on streamlining planning system factors that can materially impact the assessment and approval of clean energy projects, including the assessment of biodiversity, visual, noise and vibration impacts, cultural heritage, and land and transmission components. For more information, please refer to CEIG and Herbert Smith Freehills (HSF) *Delivering major clean energy projects in NSW - Review of NSW statutory planning approvals processes*³.

Another significant obstacle that the Government has the capacity to address is the imperative for accelerated transmission expansion. To streamline this, CEIG proposes:

1. Streamlining the economic approval process for transmission investment;
2. Expediting the implementation of the Commonwealth Government Rewiring the Nation program; and
3. Ministers can drive the implementation of the ISP as a roadmap for Australia's transition to clean energy including by facilitating social licence.

The existing and potential renewable energy capacity is evident, emphasising the need to eliminate barriers hindering its expansion. Instead of the state government investing substantial public funds to support costly and unreliable thermal generators, a more effective strategy would involve expediting the deployment of new clean energy

² Nexa Advisory (Jul-23) [Eraring can be closed on schedule](#)

³ Clean Energy Investor Group (Dec-23) [Delivering major clean energy projects in NSW](#)

resources. This could encourage investors to make early final investment decisions (FIDs) and timely construction⁴.

Recommendations to avoid extending thermal generator closures

CEIG recommends several measures that governments can enact now to avoid the need to opt into the OEM Framework:

1. Streamline planning approval processes: Improve efficiency in planning approval processes⁵, streamline environmental approvals amid ongoing long-term EPBC reform, and continue market body initiatives to streamline connection approval processes.
2. Accelerate transmission: Streamline the economic approval process for transmission investment, expedite the Commonwealth Rewiring the Nation program, and drive the implementation of the ISP.
3. Expedite new capacity: Accelerate auctions for new capacity, including storage, leveraging mechanisms like the federal Capacity Investment Scheme, the Clean Energy Finance Corporation, and NSW EnergyCo, and adjust specific contract terms to expedite this process.
4. Enhance network transparency: Mandate the regulated monopoly networks to disclose network operations data, allowing for non-network solutions and facilitating increased capacity on the network, transmission and distribution levels⁶.

Transparency is key to maintaining investor confidence

Discussions between States and thermal generators to set a precise closure schedule prove beneficial for orchestrating an orderly exit from thermal energy while maintaining transparency. Clearly defined thermal generator closure dates are also crucial to bolster investor confidence.

Clarity in contracts concerning financial compensation and terms is vital for effective planning and investment in renewable energy infrastructure. This transparency helps avert potential disruptions to renewable energy investments stemming from obscured signals within the investment landscape. Governments must aim to exceed the transparency shown by Victoria regarding Yallourn and Loy Yang A coal-fired power stations. A formal OEM Framework with well-defined transparency requirements could greatly enhance the level of transparency.

CEIG contends that contract terms should be transparent and accessible to the market. This includes details such as the duration of support, the number of units involved, and commercial details such as the treatment of negative price periods and any minimum generation requirements. These elements can have a substantial impact on the economics, operations, and bidding strategies of other market participants.

Governments should aim to minimise taxpayer money directed towards thermal

⁴ Climate Energy Finance (Jul-23) [The Lights Will Stay On: NSW Electricity Plan 2023-2030](#)

⁵ Clean Energy Investor Group (Dec-23) [Delivering major clean energy projects in NSW](#)

⁶ Climate Energy Finance (Jul-23) [The Lights Will Stay On: NSW Electricity Plan 2023-2030](#)

generators to avoid unjust practices that shield them from negative impacts through state subsidies. Such insulation could hinder renewable energy investments by dulling the overall investment signal. The priority should be expediting the shift to renewables and reducing consumer electricity bills, instead of transferring financial risks to consumers to prolong the operation of costly, polluting thermal generators unnecessarily.

OEM FRAMEWORK – DETAILED DESIGN

Although CEIG does not support the current design of the OEM Framework, we have offered comments on its design in this section.

Stage 1: The gateway process

CEIG supports the authority of the Jurisdiction Minister to direct the Australian Energy Market Operator (AEMO) to undertake a System Needs Assessment, especially when potential reliability and security concerns arise within the electricity system. This initial scoping phase, in CEIG's view, is crucial for determining the nature, scale, and duration of the identified needs. CEIG strongly supports incorporating a process within the System Needs Assessment to pinpoint events that could gradually address the reliability gap, such as new transmission infrastructure, energy storage, and other committed or anticipated projects.

CEIG notes that to trigger the OEM Framework, a thermal generator is required to retire one or more units earlier than the previously notified date, within seven years of the notification, and may seek an exemption from the Australian Energy Regulator (AER) if the new retirement date is within 42 months. CEIG contends that the trigger for the OEM Framework is far too easily reached, providing generous timeframes that could potentially encompass a majority of thermal generators. This accessibility also creates the potential for thermal generators to manipulate the system, wherein a generator could wait until the OEM Framework is in place and then decide to accelerate closure to activate the OEM Framework. The fact that generators, rather than the government, initiate the OEM Framework grants them significant influence in this process.

CEIG is very concerned regarding the potential for thermal generators to expedite their closure dates intentionally to activate the OEM Framework with the aim of securing compensation from the government. CEIG strongly recommends that the government carefully assess this risk and establish a mechanism to prevent such actions, as they pose a serious threat to the effectiveness of the OEM Framework.

Stage 2: Search for alternative solutions and voluntary negotiated agreement

CEIG strongly supports the pursuit of alternative replacement options within the relevant NEM jurisdiction to address the identified shortfall highlighted in AEMO's System Needs Assessment. However, while the OEM Framework mentions the Jurisdiction Minister's ability to consider policy options or conduct market assessments for alternative solutions, CEIG asserts that these steps should be obligatory in Stage 2, rather than left solely at the discretion of the Jurisdiction Minister.

Moreover, CEIG underscores the significance of comprehensive cost assessments for each alternative solution within the consumer benefit assessment, including estimates for a Notice of Mandatory Operation or voluntary agreement. Presently, the OEM Framework allows the Jurisdiction Minister to commission the consumer benefit assessment, but CEIG contends that this step should be obligatory.

The softer language in the OEM Framework concerning voluntary negotiated agreements could imply that the Jurisdiction is not obligated to be transparent about costs. CEIG urges the government to strengthen the language in the Framework to explicitly mandate that the Jurisdiction must release the cost assessment.

For example in the case of Eraring, it was determined that the estimated \$200-400 billion in public funds, which would otherwise be used to support Eraring, could instead be put towards accelerating the state's energy transition such as by accelerating the integration of distributed energy resources (DER)⁷.

Likewise, CEIG insists that both technical and financial due diligence reports should be mandatory under the OEM Framework prior to deciding to extend the lifespan of a thermal generator. A comprehensive decision regarding the extension of a thermal generator necessitates thorough financial and technical assessments, encompassing factors like the plant's technical condition, potential health, safety, environmental issues, and the financial standing of the OEM Generator.

Additionally, non-economic factors, including the implications of each option on the respective State's emission reduction objectives, should be integral to the evaluation of potential solutions. CEIG notes that the amended National Energy Objectives (NEO) now include emission reductions, thereby increasing the significance of cleaner alternatives over maintaining the operation of a thermal plant⁸.

CEIG recognises that this information will guide the decision-making process for the Jurisdiction Minister, and that only after a voluntary agreement has been reached will the terms of the agreement be released to the market. However, CEIG sees the value in earlier consultations with industry to ensure comprehensive assessments of alternative solutions and potential challenges before reaching an agreement to extend the lifetime of a thermal generator.

Finally, CEIG strongly recommends that the Australian Energy Market Operator (AEMO) conduct a mandatory comprehensive search of alternative options, encompassing all technologies. This should include a public call for industry to offer alternative solutions.

Transitional arrangements

CEIG believes all thermal generators under the OEM Framework should be subject to the

⁷ Climate Energy Finance (Jul-23) [The Lights Will Stay On: NSW Electricity Plan 2023-2030](#)

⁸ Australian Government (Jun-23) [Incorporating an emission reduction objective into the national energy objectives](#)

assessment of alternative solutions, regardless of when they advanced their planned closure date. While the OEM Framework acknowledges that these generators may have considered potential alternatives to their closure, CEIG stresses the importance of ensuring that all generators under the OEM Framework undergo an up-to-date assessment of alternatives before advancing to Stage 3 of the Framework.

Stage 3: Notice for mandatory operation

CEIG supports the incorporation of performance obligations and deems them essential for the successful realisation of the OEM contracts' objectives. It is critical to enforce substantial penalties in the event of non-compliance with these performance obligations, as the absence of such penalties may create an incentive for generators to pursue compensation without fulfilling their commitments.

If it is determined that a thermal generator's closure date must be modified, the inclusion of a transparent and thoroughly justified timeline is critical.

CEIG also seeks clarification regarding specific guidelines governing amendments to the extension period. The draft OEM Framework refers to potential extensions of a voluntary agreement or Notice for Mandatory Operation by up to 3 years due to delays in planned transmission projects. CEIG does not support the 3-year extension and recommends a comprehensive, transparent reassessment process before considering an extension. This reassessment process would help evaluate potential reliability gaps and explore alternative options once more prior to a second extension.

However, it is crucial to highlight that any extension of thermal generators dilutes investor confidence and could lead to unintended, long-term impacts on generation and supply. Since consumers will fund the costs of the OEM Framework, any delays in transmission buildout will indirectly result in consumers bearing the financial burden, despite their lack of control over these delays, as they largely fall under the purview of Transmission Network Service Providers (TNSPs). These consequences should be weighed against any potential extension to a voluntary agreement or Notice for Mandatory Operation.

CEIG endorses the provision that allows the Jurisdiction Minister to terminate the Notice of Mandatory Operation if they determine that the system's needs are no longer evident or if the costs materially exceed expectations. Preserving flexibility and minimising costs for consumers is crucial.

Moreover, it is stated in the OEM Framework that under a Notice for Mandatory Operation, the Generator will be remunerated for the system services they provide which may involve a financial contract. Clarity in agreements concerning financial compensation and terms is crucial for effective planning and investment in renewable energy infrastructure. This transparency aids in preventing any hindrance to renewable energy investments caused by obscured signals within the investment landscape.

Stage 4: Cost recovery structure

CEIG acknowledges that the costs associated with implementing the solutions outlined in Stages 2 and 3 are proposed to be borne by the consumers residing in the jurisdiction of the OEM Generator. Considering the challenging economic conditions affecting the cost of living in Australia, CEIG recommends that the relevant jurisdictional government bear the OEM Framework costs through its budget. However, should the government opt for consumer cost recovery, CEIG proposes supporting cost recovery from TNSPs instead of Distribution Network Service Providers (DNSP) to capture all consumers benefiting from this mechanism.

Should the government decides in favour of TNSP consumer cost recovery, clarity should be given regarding the specific TNSPs to which the cost recovery applies, particularly in jurisdictions where competition exists. CEIG suggests a fair distribution of costs across the entire network as opposed to concentrating them solely on one TNSP.

Concerning site remediation costs, CEIG does not support the structure that consumers will bear the expense of incremental costs including site remediation via the OEM Contribution. The government should ensure it holds sufficient bonds for incremental costs and ensure that the generators are responsible for the entire remediation costs.

RENEWABLES CAN BRIDGE THE GAP LEFT BY THERMAL ENERGY**Findings from the 2024 Integrated System Plan (ISP)**

The recent draft 2024 ISP's conclusions regarding an early exit of coal should be considered in the OEM Framework⁹. According to the draft ISP, the aging, unreliable and non-competitive nature of coal plants is anticipated to lead to their closure by 2038, accelerating the coal exit by five years compared to the previous ISP. This new finding reflects the evolving energy transition landscape, emphasising the increasing role of households adopting rooftop solar and accelerating home electrification beyond initial expectations. Additionally, the 2024 draft ISP highlights the important role of gas in managing peak demand and bridging the gap in periods of low wind and solar generation.

The case for NSW

In NSW, there are more than enough utility-scale renewable energy projects awaiting approval, which, if expedited, can offset the loss of capacity resulting from the planned shutdown of Eraring coal power station in August 2025¹⁰. In addition, analysis by Nexa advisory suggests that there is a combined pipeline of 4.3GW of both committed and anticipated projects, along with an additional 32GW of proposed projects. This cumulative capacity is more than sufficient to fill the gap left by Eraring's closure¹¹.

A recent analysis by Climate Energy Finance (CEF) from January 2024 overscores that

⁹ AEMO (Dec-23) [Draft 2024 ISP Consultation](#)

¹⁰ Climate Energy Finance (Jan-24) [NSW can avoid electricity shortages without paying hundreds of millions to keep Eraring open, expert says](#)

¹¹ Nexa Advisory (Jul-23) [Eraring can be closed on schedule](#)

NSW could achieve timely thermal generator closures due to two primary trends¹²:

- Electricity demand has exhibited slower growth than anticipated, increasing by only 0.6% in 2023, falling short of the 2.7% annual expansion projected by AEMO through 2030 and beyond; and
- The adoption of rooftop solar and other distributed solar systems is expected to rise, driven by the decreasing cost of photovoltaic panels and persistent high retail electricity costs.

Additionally, CEF anticipates an accelerated deployment of 5MW solar plants with batteries.

The August 2023 AEMO Electricity Statement of Opportunities 10-year reliability risk modelling also demonstrates that, with a well-implemented policy response, the scheduled closure of Eraring in 2025 poses no reliability concerns for NSW if progress is accelerated on committed and programmed renewable energy and storage projects and policy initiatives¹³.

CEIG thanks the NSW and Commonwealth Governments for the opportunity to provide feedback on their proposed Orderly Exit Management Framework and looks forward to continued engagement on those issues. Our Policy Director can be contacted at marilyne.crestias@ceig.org.au if you would like to further discuss any elements of this submission.

Yours sincerely,



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¹² Climate Energy Finance (Jan-24) [NSW can avoid electricity shortages without paying hundreds of millions to keep Eraring open, expert says](#)

¹³ AEMO (Aug-23) [2023 Electricity Statement of Opportunities](#)