



Electrical Trades Union

# *CAPACITY INVESTMENT SCHEME*

May, 2024

Implementation Design Paper

## ETU Submission

### Capacity Investment Scheme – Implementation Design Paper

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The Electrical Trades Union of Australia ('the ETU') is the principal union for electrical and electrotechnology tradespeople and apprentices in Australia, representing well over sixty-thousand workers around the country.

ETU members make up a critical pillar of the licensed electrical workforce responsible for delivering the Australian Government's commitments on providing a more efficient, affordable, and secure emissions-free energy network. We look forward to consulting with the Department to ensure that the Capacity Investment Scheme (CIS) plays an active role in the delivery of a just transition, generating broad social and economic benefits to workers and communities while maintaining and expanding upon the high standards and quality conditions that our members in the energy industry have achieved over generations.

As outlined in our August 2023 submission, more defined guardrails are needed to ensure the long-term integrity and viability of the CIS. Rather than leaving certain key elements of a potential bid exclusively up to the whims of the market and risking a race to the bottom, the Commonwealth Government should be looking to play a more proactive role in shaping the new energy industry by establishing both governance and design features to the scheme which develop, augment and define clearer boundaries for prospective bidders with regard to social license, workforce conditions, investment in training and skills, expanded participation by underrepresented cohorts and local benefits requirements while also ensuring more equitable revenue sharing.

#### **Recommendations**

**Recommendation 1: Ensure that revenue floor and ceiling prices and revenue sharing models provide a fair sharing of risk and reward to taxpayers, with regular review intervals of the operation of the scheme.**

**Recommendation 2: Provide stronger guidelines to limit revenue underwriting of wholesale hedging contracts and introduce significant penalties if an entity is found to use these instruments to avoid revenue sharing or otherwise manipulate the scheme.**

**Recommendation 3: Mandate labour standards on industry pay and conditions, apprentices, gender, and First Nations.**

**Recommendation 4: Establish a base merit criterion and associated stretch targets informed by the work of the NSW Renewable Energy Sector Board Plan and other jurisdictional programs.**

**Recommendation 5: Ensure Stage A of the project bid is a threshold assessment and that the matters assessed are transparent and appropriately weighted.**

**Recommendation 6: Establish a Strategic Industry Advisory Body with representation from Unions, Employers and Community to provide advice on the implementation of the expanded Capacity Investment Scheme with clear functions and powers and appropriate resourcing to:**

- establish merit criteria
- inform stretch goals
- identify barriers and opportunities to the scheme's implementation and
- develop and apply robust monitoring, compliance and enforcement frameworks.

**Recommendation 7: Establish and resource a transparent and accessible reporting framework that can be accessed by all relevant stakeholders.**

Net Revenue Floor and Ceiling Prices

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Whilst broadly supportive of the policy design framework outlined for ceiling/floor prices and revenue sharing, percentages demonstrated in the initial South Australian and Victorian tenders appear problematic with taxpayers continuing to share in most of the risk whilst not sharing in most of the reward.

Public expectations of the use of taxpayer funds with this program should be a key consideration, particularly considering the ongoing challenges associated with social licence. If taxpayers bear a disproportionate burden when it comes to losses, when compared to their reimbursement during periods of windfall, the scheme risks aggravating public concerns about embedded inequity.

The ‘townhall’ consultation meeting and the discussion paper outlines that the revenue underwriting design instrument will also apply to an entity’s trading activities associated with wholesale hedging contracts. Underwriting speculative trading introduces significant challenges and will almost certainly influence an entity’s risk appetite. Strong safeguards and monitoring and penalties must be implemented to prevent and discourage this behaviour.

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Labour Standards

As made clear by the Clean Energy Workforce Capacity Study prepared by Jobs and Skills Australia, the energy transition is jeopardised by severe workforce shortages. These shortages are perhaps best exemplified by the electrician occupation, where JSA identified the need for a 27% uplift in workforce by 2030. This in the context of the electrician occupation having been identified as being in shortage since 19981. Further, the electrical trades appear to be in shortage globally, with the USA

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<sup>1</sup>Currently listed on the Migration (LIN 19/048: Specification of Occupations – Subclass 482 Visa) Instrument 2019, as amended, at clause 7. See also JSA 2023 Skills Priority List: Key Findings Report September 2023,

Bureau of Labor Statistics forecasting 73,500 openings for electricians *each year* for the next decade<sup>2</sup>. Indeed, the *New Yorker* has referred to the “great electrician shortage”<sup>3</sup>, which casts significant doubt on the capacity for skilled migration to solve any skills shortage. Consequently, the workforce must emerge domestically, or the pace of the energy transition will be jeopardised.

Given this, the omission of labour standards as a criterion is particularly concerning and, if continued, would see the Commonwealth lagging both States as well comparable international jurisdictions. To address the severe need to attract, train, and retain a skilled workforce, participation in the CIS should be predicated upon commitments to ensure:

- industry pay and conditions, including portability of entitlements, reflected in enterprise agreements obtain throughout the construction and operation phases of the projects;
- a ratio of not less than 1 apprentice be engaged for every 5 tradespeople engaged on each project, with such apprentices being spread proportionally across the years of the relevant trade;
- minimum requirements and stretch goals for First Nations participation;
  - minimum requirements and stretch goals for employment of underrepresented groups (such as women, long-term unemployed, and young people).

The above are important to meeting the Government’s objectives with respect to job security and pay equity, increase labour force participation, to reduce barriers and disincentives to employment (particularly for women and other groups underrepresented in the workforce), and to improve skills and incentivise upskilling.<sup>4</sup> Other programs such as the Clean Energy Finance Corporation (CEFC) have not had similar requirements. This has often resulted in poor labour outcomes,<sup>5</sup> and means that this funding does not contribute to meeting government priorities to improve equity and workforce participation.

More fundamentally, the above will facilitate the ongoing deployment of the energy transition, allowing compliance with the 2030 and 2050 Emissions Reduction Targets.

**Recommendation 3: Mandate labour standards on industry pay and conditions, apprentices, gender, and First Nations.**

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especially at page 15; NCVER *Evidence of skills shortages in electro technology trades* 2000; Senate Standing Committee on Education and Employment *Bridging the skills divide* 2003 at 2.11.

<sup>2</sup> See LBS *Occupational Outlook Handbook*

<sup>3</sup> D Owen “The Great Electrician Shortage” *New Yorker* 24/3/2023

<sup>4</sup> See [Budget Strategy and Outlook Budget Paper No.1](#) October 2022-3, p.11, p.14 [Women’s Budget Statement](#) October 2022-3, p.27. Australian Government Treasury, [Jobs and Skills Summit September 2022 – Outcomes](#), September 2022. Australian Government Treasury, Employment White Paper [Terms of Reference](#), September 2022

<sup>5</sup> See the example of the Snowy Hydro project provided in the [ACTU’s submission to National Reconstruction Fund](#), February 2023, p.9.

## Merit criteria for employment, equity, and local procurement.

The ETU remains concerned that the matters outlined in our initial submission to the Capacity Investment Scheme remain unaddressed.

Every National Electricity Market (NEM) jurisdiction has implemented frameworks designed to improve outcomes relating to procurement and supply chain. Whilst recognising that these programs are currently disparate and that this presents significant challenges, the Commonwealth should be using its spending power to lift the standard by first modelling each jurisdiction's procurement frameworks, then adopting best practices and also seeking to close any identified gaps.

Recognising that much of the design for the expanded Capacity Investment Scheme is being informed by the NSW LTESA framework provides an opportunity to implement an already established merit-based floor and stretch model. NSW's implementation of a strong set of minimum standards and stretch targets for renewable energy tenders provides fertile ground for setting realistic and achievable baselines and evidence informed stretch targets. Many of these requirements could and should be adapted nationally. Where there is competition for a tender, projects will rightfully be judged on how far they go to meeting minimum criteria and stretch targets.

Some of the standards used in NSW tender documents include:

- Minimum requirements and stretch goals for steel products and components using locally milled steel
- A contractually binding investment in local supply chain innovation
  - The company's record on work health and safety, payment of employee entitlements, timely payment of small business subcontractors, and compliance with modern slavery legislation is also examined<sup>6</sup>.

Introducing similar or better standards into minimum requirements for CIS funding is important to meet the government's current policy objectives to improve supply chains need for the long-term viability of the energy transition.

### **Recommendation 4: Establish a base merit criterion and associated stretch targets informed by the work of the NSW Renewable Energy Sector Board Plan and other jurisdictional programs.**

Failing to properly account for the provision of local employment and training opportunities risks the CIS allowing new projects to continue contributing to the nationwide shortage of skilled trades workers, including electricians, by spurring additional demand without making any reciprocal contribution to new supply. This would have negative flow on effects for project budgets and timelines on CIS projects as well as others in the energy and construction sectors that are also competing for the same skilled workers.

The project bid stage (Stage A) of the merit assessment considers "social license, employment and local benefits" alongside technical and commercial viability, and proponent capability assessments

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<sup>6</sup>Office of Energy and Climate Change, [NSW Renewable Energy Sector Board's Plan](#), September 2022, p.28. AEMO Services, Renewable Energy Sector Board update, 5 July 2022, p. 6 'How RESB plan recommendations are considered under MC8'

but it is unclear what weighting these assessments have, nor does it outline specifically what is included.

The Stage A merit criteria assessment must be a threshold question. Proponents must meaningfully demonstrate their capacity and willingness to meet these criteria. Proponents who do not, should not be eligible to participate in the program. Secondly, the merit criteria must be transparent, evidence based and co-designed with industry, including as it ratchets over time.

**Recommendation 5: Ensure Stage A of the project bid is a threshold assessment and that the matters assessed are transparent and appropriately weighted.**

Monitoring, Reporting and Compliance

It is critical that an industry representative body is established with responsibility for monitoring, reporting and compliance and with clear functions and powers. The Minister must also be required to report at least annually to the Australian Parliament on matters of performance and compliance. The body, once established should be charged with the development of a framework for monitoring, reporting and compliance that ensures commitments are implemented. Monitoring, reporting and compliance are critical to ensuring commitments to local content by project developers are kept.

**Recommendation 6: Establish a Strategic Industry Advisory Body with representation from Unions, Employers and Community to provide advice on the implementation of the expanded Capacity Investment Scheme with clear functions and powers and appropriate resourcing to:**

- establish labour standards
- merit criteria
- inform stretch goals
- identify barriers and opportunities to the scheme's implementation and
- develop and apply robust monitoring, compliance and enforcement frameworks.

*Monitoring provisions*

Monitoring should include as a minimum:

- information and guidance to proponents on how to comply
- ongoing monitoring of Industry Participation Plan implementation including mechanisms such as:
  - o an Industry Participation Plan implementation statement
  - o a post-build report to require compliance in a defined timeframe
  - o information requests to obtain better quality information from proponents
- strong systems for data collection and reporting including standardisation to allow comparison and aggregation of the data and an appropriate database to store the large amount of data.
- have access to reporting on progress towards local content commitments including risks to compliance and mitigation actions, in a way that protects commercial interests.
- provide advice on monitoring and implementation of local content commitments.

The body responsible for monitoring implementation (or its nominated representatives) should meet with successful proponents regularly, at least quarterly, until the project is fully commissioned,

to assess progress against local content commitments and to gain a deeper understanding of opportunities and constraints. This body should receive oversight, support and secretarial assistance in performing its functions from the relevant regulatory body responsible for administration of the Scheme.

#### *Reporting and compliance provisions*

Project contracts should include reporting and compliance assurance provisions. These should include:

- an obligation to report in a format and frequency defined by the Scheme
- providing information of sufficient quality to enable monitoring and compliance
  - a graduated regulatory response framework to ensure proportional disincentives are applied for underperformance and which delivers genuine enforcement
- keeping records for a defined period to enable auditing
- reporting the number of employees that have previously worked in traditional energy sectors in the last 5 years, including coal-fired power generation or coal mining.

The scheme should report on outcomes of each tender round, including:

- total capacity of CIS contracts proposed and executed
- names of all projects, lead proponents, location, and capacity
- summary of key financial terms
  - information on the local content commitments made by successful proponents for each tender round
  - publish information regularly on progress of local content outcomes to build social licence for projects, including communicating these to local First Nations communities.

Reporting should be in a form that protects commercial interests while allowing stakeholders such as the proposed Strategic Industry Advisory Body and jurisdictional Jobs Advocates and State and Commonwealth Departments to use the information; for example:

- providing signals to industry of what is currently being achieved,
- Informing departmental staff on complementary program design and implementation,
- unions may be interested in information relating to how workers in traditional energy sectors, including coal-fired power generation or coal mining, are able to transition to new jobs in renewable energy.

The ETU also recommends that the Minister report at least annually to the Australian Parliament on:

- local content used in delivery of the CIS
  - the development of domestic supply chains for the provision of generation, storage and network infrastructure
- the number of local jobs created through CIS
  - how workers in traditional energy sectors, including coal-fired power generation and coal mining, have been able to transition to new jobs in renewable energy

- any adverse impacts experienced by these workers (e.g. decreased income compared to former coal industry employment)
- opportunities created for trainees and apprentices in CIS projects

**Recommendation 7: Establish and resource a transparent and accessible reporting framework that can be accessed by all relevant stakeholders.**