

IN THE AUSTRALIAN  
COMPETITION  
TRIBUNAL

AGL ENERGY LIMITED

of 2014

RE: PROPOSED ACQUISITION OF MACQUARIE GENERATION (A CORPORATION  
ESTABLISHED UNDER THE ENERGY SERVICES CORPORATIONS ACT 1995  
(NSW))

ANNEXURE CERTIFICATE

This is the annexure marked "BAR 6" annexed to the statement of BRETT ALAN REDMAN  
dated 23 March 2014

Annexure BAR 6

Filed on behalf of (name & role of party) AGL Energy Limited  
Prepared by (name of person/lawyer) Liza Carver  
Law firm (if applicable) Ashurst Australia  
Tel +61 2 9258 5897 Fax +61 2 9258 6999  
Email Liza.Carver@ashurst.com  
Address for service Level 35, 225 George Street, Sydney, NSW, 2000  
(include state and postcode) DX 388 Sydney

[Form approved 01/08/2011]



## Restart NSW Fund Act 2011 No 32



New South Wales

### Status Information

#### Currency of version

Current version for 1 September 2011 to date (accessed 18 March 2014 at 17:10).  
Legislation on this site is usually updated within 3 working days after a change to the legislation.

#### Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical notes](#)

#### Responsible Minister

Treasurer

#### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 September 2011.

### Contents

#### Long title

#### Part 1 Preliminary

1 Name of Act

2 Commencement

3 Object of Act

4 Definitions

#### Part 2 Restart NSW Fund

5 Establishment of Restart NSW Fund

6 Purpose of Restart NSW Fund

7 Payments into Restart NSW Fund

8 Payments out of Restart NSW Fund

9 Annual and other reports relating to Restart NSW Fund10 Investment of money in Restart NSW FundPart 3 Miscellaneous11 Act to bind Crown12 Regulations13 Review of ActHistorical notes

An Act to establish the Restart NSW Fund for the purpose of setting aside funding for and securing the delivery of major infrastructure projects and other necessary infrastructure.

**Part 1 Preliminary****1 Name of Act**

This Act is the *Restart NSW Fund Act 2011*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Object of Act**

The object of this Act is to establish the Restart NSW Fund for the purpose of setting aside funding for and securing the delivery of major infrastructure projects and other necessary infrastructure.

**4 Definitions**

(1) In this Act:

*function* includes a power, authority or duty, and *exercise* a function includes perform a duty.

*government agency* means:

- (a) a public authority constituted by or under an Act, or
- (b) a NSW Government agency, or

- (c) a Division of the Government Service, or
- (d) a local council or other local authority, or
- (e) a State owned corporation.

***Infrastructure NSW*** means Infrastructure NSW constituted under the *Infrastructure NSW Act 2011*.

***major infrastructure project*** has the same meaning as it has in the *Infrastructure NSW Act 2011*.

**Note.** The expression is defined in that Act to mean a project to provide infrastructure:

- (a) that has a capital investment value of more than \$100 million, or
- (b) that is nominated by the Premier as a special project requiring oversight or co-ordination by Infrastructure NSW.

***the Fund*** means the Restart NSW Fund established under Part 2.

- (2) Notes included in this Act do not form part of this Act.

## **Part 2 Restart NSW Fund**

### **5 Establishment of Restart NSW Fund**

There is to be established in the Special Deposits Account a fund called the Restart NSW Fund.

### **6 Purpose of Restart NSW Fund**

- (1) The purpose of the Fund is to improve economic growth and productivity in the State, and for that purpose:
  - (a) to fund major infrastructure projects, and
  - (b) to fund infrastructure projects that will improve:
    - (i) public transport, and
    - (ii) roads, and
    - (iii) infrastructure required for the economic competitiveness of the State (including the movement of freight, inter-modal facilities and access to water), and
    - (iv) local infrastructure in regional areas that are affected by mining operations, and
    - (v) hospital and other health facilities and services, and
    - (vi) workplaces for law and justice officers, teachers, nurses and other staff providing services to the public.

- (2) In this section, a reference to *funding a project* includes a reference to funding the planning, selection, implementation and delivery of the project.

## 7 Payments into Restart NSW Fund

- (1) There is payable into the Fund:
- (a) all money advanced by the Treasurer or appropriated by Parliament for the purposes of the Fund, including any such money that is certified by the Treasurer as windfall tax revenue in excess of Budget forecasts, and
  - (b) money borrowed for the purposes of the Fund, including by the issue of special bonds to the people of the State and others, and
  - (c) the proceeds of the investment of money in the Fund, and
  - (d) all money directed or authorised to be paid into the Fund by or under this or any other Act or law, and
  - (e) all money received from voluntary contributions to the Fund made by a government agency or other person or body.
- (2) Government agencies are authorised by this section to make voluntary contributions to the Fund.

## 8 Payments out of Restart NSW Fund

There is payable from the Fund:

- (a) any money approved by the Minister on the recommendation of Infrastructure NSW to fund all or any part of the cost of any project that the Minister is satisfied promotes a purpose of the Fund, and
- (b) any money required to meet administrative expenses related to the Fund, and
- (c) any money directed or authorised to be paid from the Fund by or under this or any other Act or law.

## 9 Annual and other reports relating to Restart NSW Fund

- (1) The Minister is to produce an annual report detailing payments from the Fund.
- (2) The annual report is to include information on the total amount of payments made from the Fund for infrastructure projects in rural and regional areas outside the metropolitan areas of Sydney, Newcastle and Wollongong, and whether it represents at least 30% of the total payments from the Fund on infrastructure projects.
- (3) The annual report is to include the audit of the Fund by the Auditor General (including the report of the Auditor General on whether the payments from the Fund have been made in accordance with this Act).

- (4) The annual report is to be tabled in each House of Parliament within 6 months after the end of the financial year to which it relates.
- (5) The Minister is also to ensure that Infrastructure NSW receives regular reports on the balance of money standing to the credit of the Fund.

## 10 Investment of money in Restart NSW Fund

The Minister may invest money in the Fund:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Minister to invest the money, in any other manner approved by the Treasurer.

## Part 3 Miscellaneous

### 11 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

### 12 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

### 13 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections

Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

### able of amending instruments

Restart NSW Fund Act 2011 No 32. Assented to 1.9.2011. Date of commencement, assent, sec 2.

Top of page