



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Capacity Investment Scheme

First Nations and Social Licence Market Briefing Note

Guidance on Merit Criterion 3 and
Merit Criterion 6: Tender 2 – Wholesale
Electricity Market Dispatchable Guidelines

July 2024



Purpose

The Australian Government expects that as the energy transition develops, genuine and long lasting economic and social partnerships will emerge between the clean energy industry and communities to better support and seize the opportunities of a net-zero economy.

The purpose of this briefing note is to provide additional information to assist Proponents in preparing quality Bids that address the First Nations and social licence Merit Criterion 3 (MC3: First Nations engagement, community engagement and benefits sharing, and Merit Criterion 6 (MC6: First Nations and Social Licence Commitments) for the upcoming Capacity Investment Scheme (CIS) Tender 2 – Wholesale Electricity Market (WEM) – Dispatchable (Tender 2).

MC3 is weighted at 30% at the Stage A assessment process and MC6 is weighted at 25% at the Stage B assessment process. Projects assessed as having low merit against any individual Merit Criterion may not be further assessed and may not progress to the Financial Value Shortlist.

Commitments made by Proponents will become contractually binding in the Capacity Investment Scheme Agreements and will be subject to monitoring and enforcement conditions if a Proponent is successful in the Tender 2 Process.

Why it is important Proponents invest in better First Nations and social licence outcomes

- ✓ Drives better outcomes for First Nations communities, local communities, and regional economies.
- ✓ Assists the transition to renewables by building positive local experiences and developer reputations.
- ✓ Helps facilitate the timely delivery of future projects.
- ✓ Reduces delays and costs across the life of the project.

Fostering and enabling greater economic opportunities for First Nations communities, local community support, employment opportunities, shared community benefits and development of Australian supply chains are key principles in the rollout of Capacity Investment Scheme.

First Nations engagement and benefits

First Nations people are important partners in the clean energy transformation. The Australian Government is committed to meaningful engagement with Aboriginal and Torres Strait Islander peoples to achieve our priorities, and contributing to Closing the Gap.

First Nations engagement and commitments will be assessed against MC3 and MC6, to form contractually binding commitments. The assessment is looking for evidence of respectful and productive engagement with First Nations communities, and for First Nations groups to be afforded genuine social and economic opportunities through Projects supported under the CIS.

This includes opportunities for ownership, revenue sharing and energy offtake agreement models for First Nations communities.

Social licence criteria

This Market Briefing Note should be read in conjunction with the draft Dispatchable Capacity Investment Scheme Agreement (**CISA**), MC3 and MC6 under Section 3.2 of the Tender Guidelines, the MC3 Returnable Schedule, the Financial Value Bid form, and the MC6 Returnable Schedule. The MC3 Returnable Schedule will be available to Proponents when applying for Stage A, and the Financial Value Bid form and MC6 Returnable Schedule will be available to Proponents who progress to Stage B of the assessment process.

In the event of any inconsistency between this Market Briefing Note and the draft CISA, the Tender Guidelines, the Project Bid form or the Financial Value Bid form, then, in descending order of priority, the:

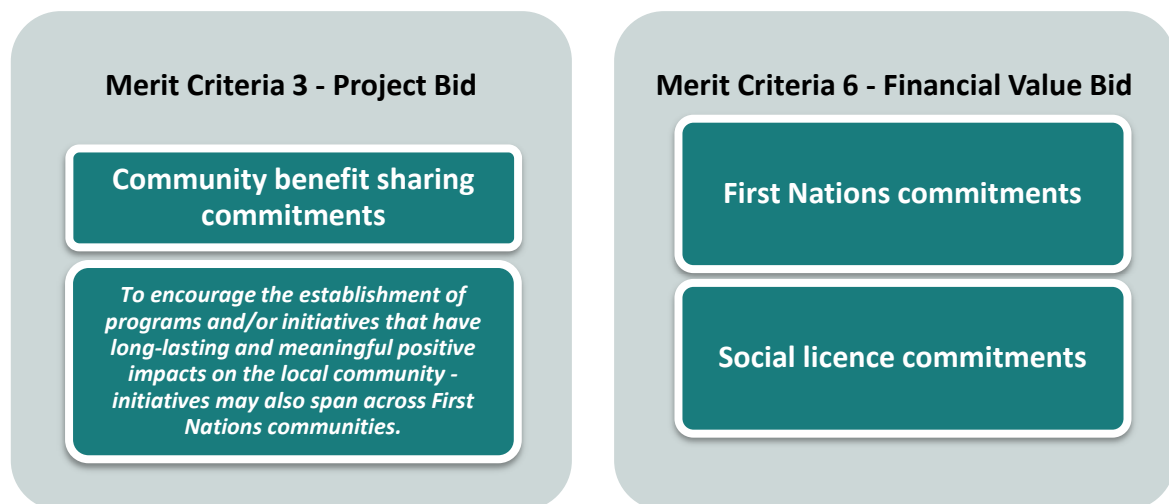
- Tender Guidelines,
- Project Bid form,
- Financial Value Bid form, and
- draft CISA

will prevail over the content of this note to the extent of the inconsistency.

Capitalised terms have the meaning given to them in the Tender Guidelines, the draft CISA, the Project Bid form and the Financial Value Bid form (as applicable).

In accordance with Section 3.2 of the Tender Guidelines, as part of the Bid responses, Proponents must:

- Demonstrate engagement with First Nations communities, stakeholder and local communities, and provide details of binding community engagement and benefits sharing commitments (under MC3).
- Provide First Nations and Social Licence Commitments under MC6 as illustrated below.



Proponents are referred to:

- MC3: 'First Nations engagement, community engagement and benefits sharing' under section 3.2.1 of the Tender Guidelines.
- MC6: 'First Nations and Social Licence Commitments' under section 3.2.2 of the Tender Guidelines.

- The definition of ‘Social Licence Commitments’ is contained in the draft CISA and refers to a Proponent’s commitments to community benefit sharing, First Nations, and regional and economic benefits over the life of a proposed Project which will become binding on a Proponent upon entering a Dispatchable CISA.

Assessing First Nations and community engagement, and commitments

First Nations and community engagement and benefits sharing commitments will be competitively assessed.

Bids should provide evidence of early and culturally aware engagement with First Nations communities, an understanding of the local community and an understanding of Project impacts on First Nations and local communities.

Bids that provide a strong range of commitments across all First Nations and social licence categories (MC3 and MC6) with a clear strategy to achieve them will be assessed favourably.

Proponents must demonstrate how their strategies and approach to achieving their proposed Social Licence Commitments will drive meaningful change and positive outcomes for the communities they seek to operate in. Social Licence Commitments include a Proponent's commitments to First Nations communities, and support for regional economic development in the renewables sector, including supply chain and workforce. **Under the Dispatchable CISA, First Nations and Social Licence Commitments made by Successful Proponents will become contractually binding.**

Commitments under MC3 relate to shared community benefits, but it is noted that these commitments may overlap somewhat with the commitments provided under MC6. Commitments made in the MC3 Returnable Schedule should not be duplicated in the MC6 Returnable Schedule, but reference to these commitments can be made in the Financial Value Bid.

The tables below outline the policy intention for the Australian Government seeking First Nations and Social Licence Commitments and provides examples of valued contributions that could support quality Bid responses.

MC3 – First Nations engagement, community engagement and benefits sharing

Element	Policy intention	Examples of what we are looking for
Shared community benefit commitments	To encourage the establishment of programs and/or initiatives that have long-lasting and meaningful positive impacts on local communities. The quality and positive impact of the initiatives will be valued over the quantum of initiatives and may span across First Nations and local communities.	<ul style="list-style-type: none"> ✓ Inviting local community to coinvest in the Project with profit sharing arrangements with the community members. This can be implemented by projects that are in construction or that are already in operation.¹ ✓ Novel approaches to electricity access schemes where First Nations and local communities benefit from lower prices and/or greater energy security through access to small scale solar and battery installations. ✓ Optimised infrastructure to benefit neighbouring community upgrades to degraded land/waterways located near to the Project. ✓ Commitments to minimise adverse environmental impacts and maintain high biosecurity standards.

¹ Note specific opportunities for economic contribution for First Nations groups should be included in MC6 during Stage B.

MC6 – First Nations and Social Licence Commitments

Element	Policy intention	Examples of what we are looking for
First Nations	To provide First Nations people with opportunities to increase economic and social benefits.	<ul style="list-style-type: none"> ✓ Ownership, revenue sharing and energy offtake agreement models for First Nations communities. ✓ Partnering with First Nations employment services during pre-construction to support hiring and ongoing management of First Nations workforce. ✓ Funding commitments to subcontract with First Nations businesses. ✓ Scholarships with local universities to support individuals transitioning from agricultural and mining sectors to the renewable sector. ✓ Funding to support work readiness (i.e. driver’s licence attainment, secure accommodation, pre-apprenticeship training). ✓ Bids that can demonstrate commitments similar to those outlined in the NSW Renewable Energy Sector Board Plan objectives for First Nations participation may be found to be of higher merit.
Local Employment	To encourage investment in local employment including skills, labour standards, training, high labour standards, and capacity building to support the development of the renewable energy workforce.	<ul style="list-style-type: none"> ✓ Evidence of workplace agreements between Proponents and organisations including with unions (e.g. agreed memoranda of understanding) that cover meeting high standard approaches to employment conditions, qualifications and training. ✓ Appointment of a regional economic development lead to engage with local businesses to maximise use of the local industry over the Project life. ✓ Appointment of a renewable workforce participation lead who is employed to engage with the community in developing the design of initiatives, implement workforce skilling and pre-employment programs and initiatives, including for underrepresented and disadvantaged groups, and adopt and maintain labour standards. ✓ Contribution to, or funding of, locally based vocational education and training courses and actively working with existing government and industry bodies to deliver new training to meet industry needs. ✓ Establishment of a learning hub for the project’s local schools to support early-stage education on renewable energy concepts, over operational life of the Project. ✓ Funding scholarships for school leavers, internships, mentoring programs and return to work programs for women and mature age workers. ✓ Bids may wish to consider commitments similar to the minimum requirements and stretch goals that can demonstrate commitments outlined similar to those outlined in the NSW Renewable Energy Sector Board Plan for employment, skills and knowledge transfer, and employment of underrepresented groups. Similar commitments may be found to be of higher merit.
Local Content <i>Local Content means goods, services and labour procured from Australia and New Zealand.</i>	To maximise use of local content and to incentivise Projects to actively source Local Content or incorporate local content when possible, including Australian and New Zealand sourced materials and suppliers that support the development of local supply chains, including in renewable components	<ul style="list-style-type: none"> ✓ Funding research and development programs to drive innovation within local and Australian supply chains. ✓ Sourcing goods and services from local suppliers. ✓ Funding to build the capacity of the local manufacturing sector. ✓ Commitment to complete an Australian Industry Participation Plan. ✓ Bids may wish to consider commitments similar to the minimum requirements and stretch goals outlined can demonstrate commitments similar to those outlined in the NSW Renewable Energy Sector Board Plan objectives for supply chains. Similar commitments may be found to be of higher merit.

Element	Policy intention	Examples of what we are looking for
	and materials (includes assessment of pre-COD CAPEX and post-COD OPEX).	

Guidance on Returnable Schedules

To ensure transparency and accountability, and the delivery of tangible benefits to local communities and economies, Proponents are required to provide firm financial values for all Social Licence Commitments in the MC3 and MC6 Returnable Schedules. These commitments must be clearly articulated.

Proponents must specify exact financial values for **each** individual commitment in real Australian Dollars (A\$) as of the Tender Date, which is the date on which a Proponent submitted its “Financial Value Bid” as part of the Tender Process. Financial values should be absolute figures, not presented as ranges. In cases of uncertainty, proponents must use the lower end of any estimated range as the firm value. Proponents must clearly define the period over which each commitment will be delivered. This ensures that the timeline for delivering social benefits is transparent and measurable, and Successful Proponents may be held to account for delivery of commitments.

Proponents must ensure that the commitments made in the MC3 Returnable Schedule (submitted as part of the Project Bid) and MC6 Returnable Schedules (submitted as part of the Financial Value Bid) are consistent with the Social Licence Commitments, to be populated in Schedule 2 of the Dispatchable CISA, as part of the Financial Value Bid. The Returnable Schedules are mandatory attachments and a Bid will be unsuccessful if these are not provided.

Pursuant to Section 4.29 of the Tender Guidelines, all Social Licence Commitments provided as part of the Financial Value Bid will be contractually binding where the Proponent becomes a Successful Proponent and enters into a Dispatchable CISA with the Australian Government.

First Nations and Social Licence Commitment expectations

Where a Proponent fails to provide Social Licence Commitments for each category of the Returnable Schedule, their Bid may be scored lower relative to Bids that are otherwise of equivalent merit but are able to provide strong commitments across all categories.

Bids that do not provide commitments will be assessed based on a nil response and may be assessed as low merit where insufficient justification is provided to support their response. Where Proponents are unable to provide commitments for a particular category, the Proponent should:

- Demonstrate best efforts and a well-considered approach undertaken to maximise commitments across each of the categories, providing evidence such as procurement planning, market sounding, and engagement with suppliers or workforce groups.
- Provide a detailed justification as to the constraint (e.g. capacity, timeframe, or cost) that prohibits the requirements from being achieved, with evidence of the constraint. The robustness of the evidence and rationale provided will form part of the assessment.
- Proponents should consider making alternative commitments in the optional table, where it can demonstrate that these commitments support the Merit Criteria policy intent, to strengthen their response. The alignment of any alternative commitments to the policy intent of the Merit Criteria, as outlined in Table will be considered in the assessment.
- Projects that have progressed beyond the development stage should submit their performance details against the relevant targets to date and provide commitments relevant to future phases, including operations and maintenance.

MC3 Returnable Schedule

As outlined in section 3.2 of the Tender Guidelines, Proponents must provide binding commitments for the Project's shared community benefits in the completed MC3 Returnable Schedule. For further guidance on how to populate the MC3 Returnable Schedule, see the instructions tab in the excel workbook.

MC6 Returnable Schedule

As outlined in section 3.2 of the Tender Guidelines – Proponents must provide binding commitments to improve First Nations economic and social outcomes, and regional economic development, by completing the MC6 Returnable Schedule.

Commitments provided in the MC3 returnable schedule, should not be duplicated in the MC6 returnable schedule.

An optional table is included in the MC6 Returnable Schedule to provide flexibility where Proponents decide to offer additional Social Licence Commitments beyond the framework provided.

- The optional table enables Proponents to further strengthen their Bids by making supplementary commitments to support initiatives and/or programs which align with the policy intent of MC6.
- The optional table may be utilised by Proponents that have unique and innovative First Nations or regional industry development initiatives that do not fit neatly within the parameters provided in the standard tables and/or may require different milestones or measures. Any commitments provided in this table should include clear milestones and be contractually binding upon award.

For further guidance on how to populate the MC6 Returnable Schedule see the instructions tab in the excel workbook.

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