



NSW Electricity Infrastructure Tenders

Guidelines – Tender Round 1

September 2022



IMPORTANT NOTICE

TIMING OF DECLARATION FOR ACCESS RIGHTS

An Access Scheme Declaration by the Minister is required in order for a Tender Round to include granting or increasing Access Rights.

As at the time of the publication of these Tender Guidelines, the relevant draft Access Scheme Declaration has been published for consultation, which has now closed.

The Access Rights will form part of the Tender Round, subject to compliance with [Section 1.3](#) of these Tender Guidelines and once the three actions outlined below have occurred. The Consumer Trustee anticipates that:

- the relevant Access Scheme Declaration will be made on or around 4 October 2022;
- Energy Corporation of New South Wales will have finalised supporting legal documents for connecting to CWO REZ on or around a similar date; and
- following the making of the relevant Access Scheme Declaration, the Consumer Trustee will publish an Addendum to these Tender Guidelines providing any additional information required for Proponents seeking Access Rights, or will otherwise confirm no Addendum is necessary.

Where these requirements are not satisfied the Consumer Trustee will contact impacted Proponents and advise next steps.

ACKNOWLEDGEMENT

The provisions of the *Electricity Infrastructure Investment Act 2020 (NSW) (EII Act)*, *Electricity Infrastructure Investment Regulation 2021 (NSW)*, associated regulations and regulatory instruments made from time to time, and the Tender Rules apply to the Tender Rounds. This document includes a description of requirements of the EII Act associated regulations and regulatory instruments and Tender Rules but is not a substitute for, and does not derogate from, those requirements.

To the extent that these Tender Guidelines may materially differ from the Tender Rules, the Consumer Trustee may, in its absolute discretion, notify Proponents as to the interpretation that will apply in order to resolve such inconsistency.

DISCLAIMER

This document has been prepared by AEMO Services Limited (ABN 59 651 198 364) as the NSW Consumer Trustee (AEMO Services). It is subject to the [Tender Conditions](#) in Section 5 and any other disclaimers or notices provided with this document.

The objective of the Tender Round is to receive offers from persons that are interested in undertaking the Project and have the capacity, capability and experience to do so. This document has been prepared to assist Proponents (and their Associates and Consortium Members) in making their own evaluation of the Project and does not purport to contain all the information that Proponents (and their Associates and Consortium Members) may require.

This document is not an offer document and is not intended to give rise to any contractual relationship. Proponents (and their Associates and Consortium Members) should conduct, and must rely entirely on, their own independent investigations, review, preparation of Bids, and analysis of the Tender Round, the Project and the information set out in this document or otherwise provided during the Tender Round, and not on this document.

This document provides a summary of the relevant laws in the EII Act and associated regulations and policies as at 7 September 2022. Legislation and regulations may be subject to change.

The Tender Round is part of a new process, established under the EII Act and associated regulations, and further regulations and regulatory instruments (not yet made) may apply to each Tender Round – further regulations are expected on or by Q4 2022, including in relation to changes to the NEL and NER, which will be notified by the Consumer Trustee through the Consumer Trustee's website. This document may include generalisations and assumptions about future policy outcomes. This document or the information in it may be subsequently updated or amended. This document does not constitute legal or business advice and should not be relied on as a substitute for obtaining detailed advice about the EII Act, the National Electricity Law, the National Electricity Rules, or any other applicable laws, regulations, regulatory documents, reports, procedures, or policies.

AEMO Services has taken care in the preparation of the information contained or referred to in this document but cannot guarantee its accuracy or completeness. Accordingly, to the maximum extent permitted by law, AEMO Services and its Associates involved in the preparation of this document:

- a. do not give any warranty or make any representation, express or implied, as to the completeness, accuracy, adequacy or correctness of the information contained or referred to in this document or any information which may be provided in connection with it or the Tender Round, and
- b. expressly disclaim any and all liability relating to or resulting from:
 - i. the use of, or reliance on, such information by any person, a Proponent (including a Consortium Member) or any of their respective Associates, including in the preparation and submission of a Bid (including any decision not to prepare or submit a Bid); or
 - ii. the exercise of any discretion, or the making of any decision, by AEMO Services or its Associates in relation to the Tender Round, including in the assessment of any Bid by a Proponent and its Consortium Members and their respective Associates.

CONFIDENTIALITY

Other than information publicly disclosed on AEMO Services' website dedicated to the Tender Round, all Disclosed Information is confidential information about AEMO Services and its activities. Proponents, Consortium Members and their respective Associates are subject to the confidentiality obligations set out in, and are not permitted to disclose or to use any such information other than as permitted by, the [Tender Conditions at Section 5.9](#).

All persons are also bound by the non-disclosure obligations imposed by section 75 of the EII Act. Under that provision a person must not, subject to certain specified exemptions, disclose information obtained in connection with the administration or execution of the EII Act. That section also sets out the consequences of non-compliance being penalties applicable to individuals and corporations.

ROLE OF OTHER ENTITIES

In accordance with section 60(3) of the EII Act, the Consumer Trustee is to act independently and in the long-term financial interests of NSW electricity customers. In conducting activities in connection with this document and in the exercise of its statutory functions under the EII Act, AEMO Services as the NSW Consumer Trustee may consult with EnergyCo, TransGrid and other relevant entities with regulated roles in the National Electricity Market, subject to the requirements of the EII Act. Further information for Proponents regarding the role of EnergyCo and other relevant entities is set out in [Section 3](#) and [Section 6](#) of this document.

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Tender Round 1 details





A. Important dates*

	Step	Date
	<i>Tender Registration Date</i>	5 September 2022
	<i>Tender Commencement Date</i>	4 October 2022
	<i>Project Bid Closing Date and Time</i>	28 October 2022 at 5.00pm AEST
	<i>Invite to submit Financial Value Bid</i>	Mid December 2022*
	<i>Financial Value Bid Closing Date</i>	10 February 2023
	<i>Notify unsuccessful Proponents</i>	April 2023*
	<i>Announce Selected Bids</i>	No later than April 2023*

*Note: these dates are indicative for Tender Round 1. Final dates will be published on the AEMO Services website, or notified as applicable via email to Registered Proponents.



B. What Proponents can bid for

Welcome to the first Tender Round for generation and long duration storage infrastructure conducted by AEMO Services as the NSW Consumer Trustee. This tender process is designed to recommend quality Projects capable of delivering electricity infrastructure that are in the long-term financial interests of NSW electricity customers.

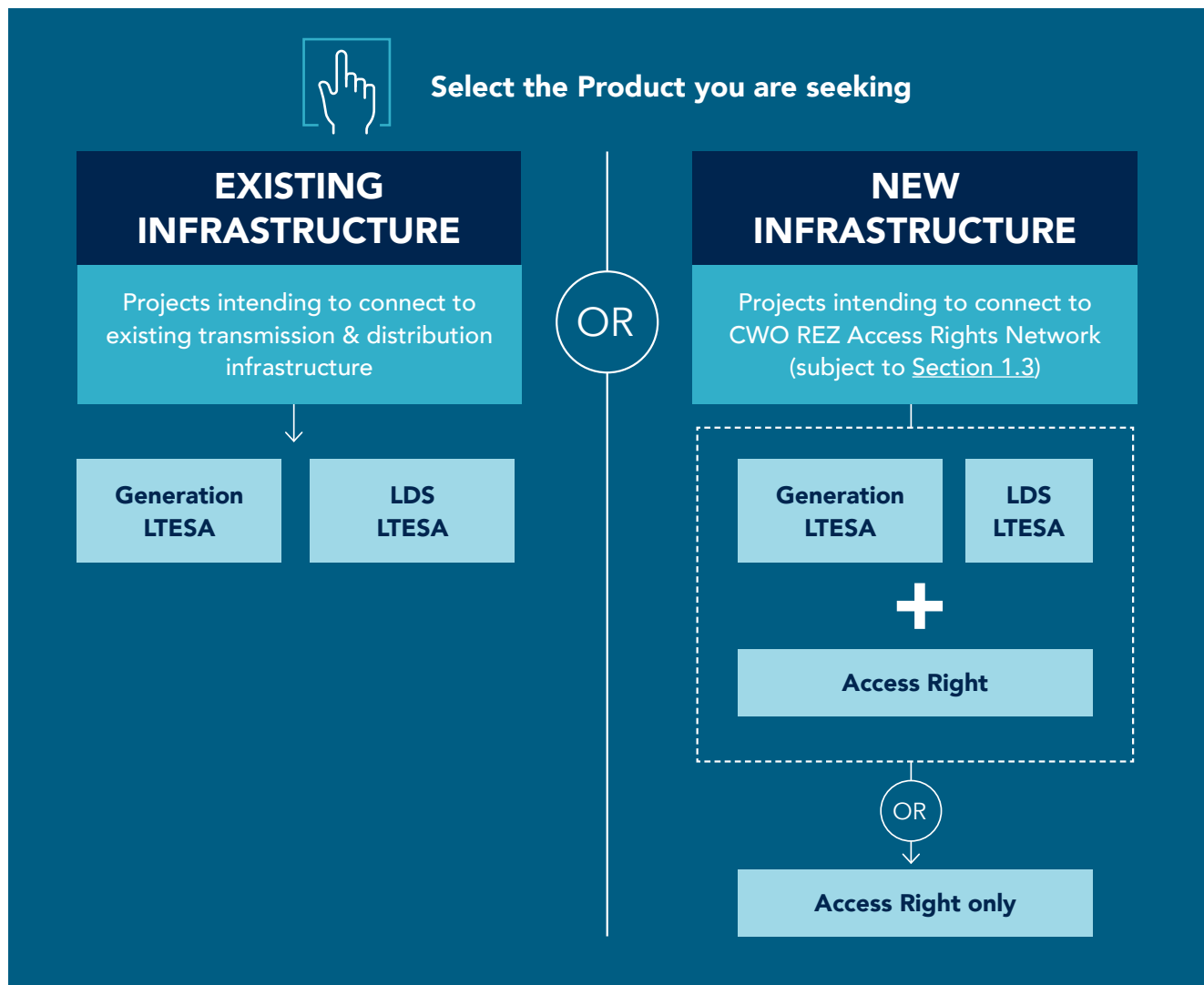
Tender Round 1 allows Proponents to bid for:

- an LTESA (Long-Term Energy Service Agreement)
- an Access Right¹ in CWO REZ, or
- both an LTESA and Access Right² in CWO REZ.

To be awarded an Access Right, as part of either a bid for Access Right only or combined with an LTESA, a Proponent must bid and be successful in a Tender Round.

Proponents seeking both Products are required to bid for them in the same Tender Round and be successful for both. Projects that are successful in obtaining an Access Right (but not an LTESA) will not be able to seek an LTESA in a later Tender Round.

The Consumer Trustee may limit the number of Bids a Proponent can put forward in each Tender Round. Tender Round 1 does not include LTESAs for firming infrastructure.



¹ Subject to Section 1.3 of these Guidelines.

² Subject to Section 1.3 of these Guidelines.

LTESAs

The indicative tender size for LTESAs for this Tender Round is in line with the Consumer Trustee's 7 April 2022 update to the implementation plan for tenders.³

Item	Indicative tender size	Location
Generation LTESA	2500 GWh p.a. ⁴	All NSW
Long duration storage (LDS) LTESA	600 MW	

The indicative tender size for Tender Round 1 is informed by the IIO Report. The Consumer Trustee has flexibility and discretion to recommend greater or less LTESAs compared to the indicative size in the IIO Report. This is provided that recommendations are consistent with requirements in the EII Act, including the long-term financial interests of NSW electricity customers.

The IIO Report includes a development pathway and tender plan. The tender plan sets out the indicative tender size for Tender Rounds. Tender Rounds intend to support the development pathway's achievement through the award of LTESAs. The number of Projects recommended by the Consumer Trustee in Tender Round 1 may vary depending on factors that are revealed through the market process, such as:

- The commitment dates presented by each Project.
- The financial value represented by each Project.
- Whether recommending a Project for an LTESA is in the long-term financial interests of NSW electricity customers.

Below are examples where the Consumer Trustee could increase or decrease the size recommended in a Tender Round, in each case where it is in the long-term financial interests of NSW electricity customers.

Increasing size in a Tender Round	
Example A: Generation LTESA	A single Project bids and it is greater than 2500 GWh p.a. This Project is successful in the tender and could be allocated an LTESA for its total output.
Example B: Generation LTESA	Multiple attractive generation bids are recommended by the Consumer Trustee, and the aggregate is materially greater than 2500 GWh p.a. for example, 5000GWh p.a. This could occur where all the Projects are of a high standard.
Example C: LDS LTESA	A Project (or Projects) bid seeking more than 600 MW. Due to the long construction timeframes associated with some LDS technologies, additional LDS LTESA could be provided to Projects expected to commission closer to 2030.
Reducing size in a Tender Round	
Example A: Generation LTESA	There are a smaller number of Projects that bid an LTESA fixed price that the Consumer Trustee considers provide appropriate financial value or to be in the long-term financial interests of NSW electricity customers. In this scenario, the Consumer Trustee would likely recommend Generation LTESAs equivalent to less than 2500 GWh.
Example B: LDS LTESA	There are not 600 MW of LDS Projects that are sufficiently progressed or derisked. The Consumer Trustee considers the annuities these Projects are seeking run the risk of not providing appropriate financial value or are not in the long-term financial interests of NSW electricity customers. The Consumer Trustee would likely not recommend any LDS LTESAs.

³ [Update to implementation of the plan for competitive tenders in the December 2021 Infrastructure Investment Objectives Report](#)

⁴ Approximately equates to 1,000 MW depending on technology mix.

CWO REZ Access Rights

Tender Round 1 covers the Initial Allocation of [CWO REZ Access Rights](#). For instructions on how to access the REZ information pack that includes technical specifications and timings of CWO REZ refer to [Table 5](#).

Item	Initial Allocation for CWO REZ
Access Right	<p>Under the Initial Allocation, the Infrastructure Planner may grant CWO REZ Access Rights following a recommendation from the Consumer Trustee.</p> <p>The Infrastructure Planner may grant Access Rights following one, or more Tender Rounds until the Target Transmission Curtailment Level of 4.37% is reached, or if it is not reached, up to the initial Aggregate Maximum Capacity Cap of 5.84 GW.</p> <p>The CWO REZ Access Scheme Declaration provides the circumstances in which the Infrastructure Planner may determine the Initial Allocation to be completed.</p>

Relevance to Tender Round

The [Infrastructure Planner](#) may grant CWO REZ Access Rights following one or more Tender Rounds, or in accordance with the process for Project modifications outlined in the draft CWO REZ Access Scheme Declaration. To be granted an Access Right under the Initial Allocation of the CWO REZ Access Scheme, as part of either a Bid for Access Right only or combined with an LTESA, a Proponent must bid and be successful in a Tender Round. Proponents seeking both [Products](#) are required to Bid for them in the same Tender Round and be successful for both.

A CWO Access Right authorises an Access Right holder to submit an application to connect the approved Project to the Access Rights Network, and to send out generation from the approved Project into the Access Rights Network. This will be subject to the terms of any applicable Access Right Agreement, including a Project Development Agreement (PDA) and relevant project coordination agreement(s). The Access Right Agreements include the obligations on the Access Right holder to achieve Financial Close and construct and commission the Project.



C. Draft CWO REZ Access Fees

The draft CWO REZ Access Fee, payment structure and further details of the Access Fee is included in the table below. The Consumer Trustee will publish the final CWO REZ Access Fee determination on its website⁵ following the Minister's Access Scheme declaration. The final CWO REZ Access Fee determination will include confirmed positions on the items outlined⁶ and detail the components for community and employment purposes.

The revenues from the Access Fee will be used to share benefits with the local CWO REZ community (specified as community and employment purposes), support the costs of administering the Access Scheme and offset part of the cost of the network infrastructure. CWO REZ Access Right holders may choose one of four payment structure options.

Standalone storage assets connecting to new REZ network infrastructure will require an Access Right but it is expected that will be exempt from paying the Access Fee. Load assets will also be exempt from paying the Access Fee and these do not require an Access Right.

Access Fees for an Access Right will not contribute towards assessing merit of a [Project Bid](#); however, it will be considered in the [Financial Value Assessment](#).

Draft CWO REZ Access Fee in detail

Item	Description		
Determination	Access Fees are determined by the Consumer Trustee under section 26(1) of the EII Act.		
Access Fee level	\$4,000 - \$5,000/MW p.a. ⁷		
Pricing model	Fixed fee per year.		
Allocation base	Based on the Project's awarded Access Right Maximum Capacity (MW).		
Term	Fixed term from the granting of the Access Right until the Access Scheme ceases - up to a maximum of 20 years (length of the Access Scheme).		
Payment timing	It is expected that upfront payment will be aligned with a Project's Commercial Operation Date (COD) and any ongoing payments will start when a Project begins construction.		
Indexation	Annual CPI		
Payment structure	Choice between four options combining upfront and ongoing payment:		
	Option	Upfront	Recurring
	A	25%	75%
	B	50%	50%
	C	75%	25%
D	100%	0%	









⁵ Once published, the final CWO REZ Access Fee determination will be accessible at <https://aemoservices.com.au/tenders/tender-pack>

⁶ This includes finalising considerations of offering potential discounts where a project selects a payment structure with higher than 25% upfront fee payments and finalising the payment timing for upfront and recurring payments.

⁷ Final Access Fee is expected to be within this range.



D. How to use this guide: where to start

Tender step	Proponent requirements	Assessment stage	Bid status
(including hyperlinks)			
Registration	<p>Proponent Eligibility Criteria Criteria to ensure that Proponents possess the requisite technical, financial, legal and commercial capabilities to be able to deliver the Project.</p>	Proponent Eligibility	Eligible Proponent
Project Bid	<p>Tender Process Deed Sign and return</p>		Project Assessment
	<p>Project Eligibility Criteria Criteria to ensure that only Projects at an appropriate stage of development progress to assessment against the Merit Criteria.</p>	Assessed against Project Merit Criteria	
	<p>Project Merit Criteria</p>		
	<p> Merit Criteria 3 – Impact on electricity system</p>		
	<p> Merit Criteria 4 – Pathway to commercial operation</p>		
	<p> Merit Criteria 5 – Organisational capacity to deliver Project</p>		
	<p> Merit Criteria 6 – Land use considerations</p>		
	<p> Merit Criteria 7 – Community engagement and benefits</p>		
<p> Merit Criteria 8 – Regional economic development</p>		Project Shortlist	
Financial Value Bid	<p>Provide Security for Process Bond</p>	-	
	<p>Financial Value Merit Criteria</p>	<p>Financial Value Assessment + Portfolio Assessment and due diligence including assessing: - Outstanding Merit (if applicable) - Long-term financial interests - Value for Money</p>	Final Shortlist
	<p> Merit Criteria 1 – Financial value</p>		
	<p> Merit Criteria 2 – Commercial departures</p>		
Recommendations	-	Consumer Trustee risk management and statutory compliance considerations	Recommended Bid
Award	-	SFV or EnergyCo award contracts	Selected Proponent



E. Default Financial Value Bids and Alternative Bids

At the [Financial Value Bid](#) stage of Tender Round 1, Proponents must submit a Default Financial Value Bid.

To provide flexibility and encourage commercial innovation, Proponents may also submit one additional Bid for the same Project.

The additional Bid (Alternative Bid) can be one of the following:

- an Alternative Financial Value Bid where only the prescribed Bid Variables are adjusted and the Product combination remains unchanged; or
- an Alternative Product Bid, where the Product selection is changed to an Access Right only.

The table below provides guidance on the factors for Proponents to consider. [Alternative Bids](#) will be assessed against the same set of [Financial Value Merit Criteria](#).

Types of Alternative Bid	When to consider between two options	What Products or combinations of Products you can include	Examples
Alternative Product Bid	Proponents must indicate their preference at the Project Bid stage and provide additional information on MC4 if they are seeking an Alternative Product Bid.	Access Right only	<p>A Project connecting to the CWO REZ Access Right network may submit a:</p> <ul style="list-style-type: none"> • Default Financial Value Bid – LTESA and Access Right; and • Alternative Product Bid – Access Right only
Alternative Financial Value Bid		LTESA (LDS or Generation) with departures from the default commercial terms	<p>A Project connecting to open access network in NSW may seek a:</p> <ul style="list-style-type: none"> • Default Financial Value Bid – LTESA for 40 year contract term; and • Alternative Financial Value Bid – LTESA for 20 years of contract term

The tables below set out the key commercial terms and Bid Variables that must be supplied by each Proponent in order to submit a compliant Bid for a Generation LTESA and LDS LTESA, respectively. Proponents must submit a Default Financial Value Bid and may submit an Alternative Financial Value Bid in accordance with the below Bid Variables for each [Financial Value Bid](#).

Generation LTESA

Key commercial term	Default Financial Value Bid	Alternative Financial Value Bid
Option terms		
Contract term	20 years	Bid Variable (reducing the contract term by making the end date of the LTESA less than 20 years after the start date)
Exercise notice period	6 months	6 months
Repayment Threshold Price	Bid Variable	Bid Variable
Escalation	Fixed nominal (not escalating)	Bid Variable See Generation LTESA Alternative Financial Value Bid explanation below.
Cash settled swap terms (if option is exercised)		
Option Period	2 years	2 years
Fixed Price	Bid Variable	Bid Variable (which may be a schedule of distinct fixed prices, for each swap start date, in either nominal or real dollars)
Maximum Capacity	Bid Variable	Bid Variable
Contracted Percentage	Bid Variable	Bid Variable
Contracted shape	Generation following	Generation following
Green rights and other products (incl. capacity)	Bundled i.e. includes electricity, green rights and other products	Bundled i.e. includes electricity, green rights and other products
Negative price provision	Zero price floor	Zero price floor
Minimum Generation	An amount of energy in MWh equal to 75% × forecast P90 annual sent out generation across each 2-year swap period.	An amount of energy in MWh equal to 75% × forecast P90 annual sent out generation across each 2-year swap period.

Bid price options: Generation LTESA Alternative Financial Value Bid

Bid prices in the Default Financial Value Bid are fixed nominal, i.e., 0% escalation. In the Alternative Financial Value Bid, there is flexibility for the Proponent to alter this if it will allow it to provide competitively lower prices. Instead of fixed nominal, the Proponent may provide its Bid prices as:

- A schedule of Fixed Prices varying by relevant swap start date, in nominal dollars.
- A schedule of Fixed Prices varying by relevant swap start date, in real dollars (2023) subject to annual CPI escalation.
- A single Fixed Price that is subject to fixed or annual CPI escalation.

CPI escalation may include a cap on annual escalation or apply only to a percentage of the fixed price.

Alternative Financial Value Bids based on CPI escalation are expected to reflect the change in risk allocation in their Bid prices.

LDS LTESA

Key commercial term	Default Financial Value Bid	Alternative Financial Value Bid
Option terms		
Contract term	14 years for chemical batteries and 40 years for pumped hydro. Lesser of 40 years or asset life for any other LDS technologies.	Bid Variable Up to a maximum of 40 years but must be the lesser of 40 years or the asset life for any other LDS technologies.
Exercise notice period	6 months	6 months
Net Revenue Threshold	Bid Variable	Bid Variable
Escalation	Annually at the lesser of Consumer Price Index (CPI) or 3%	Annually at the lesser of Consumer Price Index (CPI) or Bid Variable
Annuity terms (if option is exercised)		
Option Period	2 years	2 years
Maximum Capacity	Bid Variable	Bid Variable
Annuity Cap	Bid Variable	Bid Variable (which may be a schedule of annuity caps varying by relevant annuity start date in fixed nominal dollars or subject to CPI escalation under a cap (Bid Variable) on annual escalation). See LDS LTESA Alternative Financial Value Bid explanation below.

Bid price options: LDS LTESA Alternative Financial Value Bid

The Alternative Financial Value Bid provides greater flexibility for the Proponent in setting their Annuity Cap and escalation. Proponents can use this flexibility to better reflect how changes in contracting and financing arrangements will affect the required Annuity Cap in specific periods within the LDS LTESA term. In the Alternative Financial Value Bid, the Proponent may provide its Annuity Cap as:

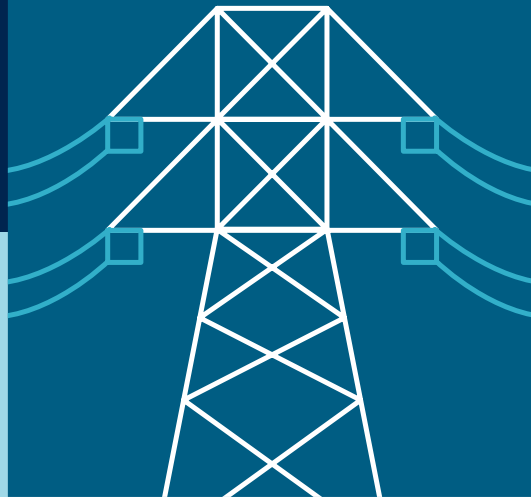
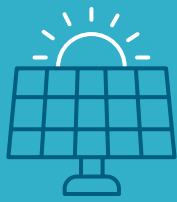
- A schedule of Annuity Caps varying by relevant swap start date in fixed nominal dollars or subject to annual CPI escalation under a cap on annual escalation.
- A single Annuity Cap that is subject to fixed or annual CPI escalation.

CPI escalation should include a cap on annual escalation which is a **Bid Variable** (that may be set to 0%).



F. Application of Tender Conditions

Participation in the Tender Round is subject to compliance with the [Tender Conditions](#) and execution of the [Tender Process Deed](#).



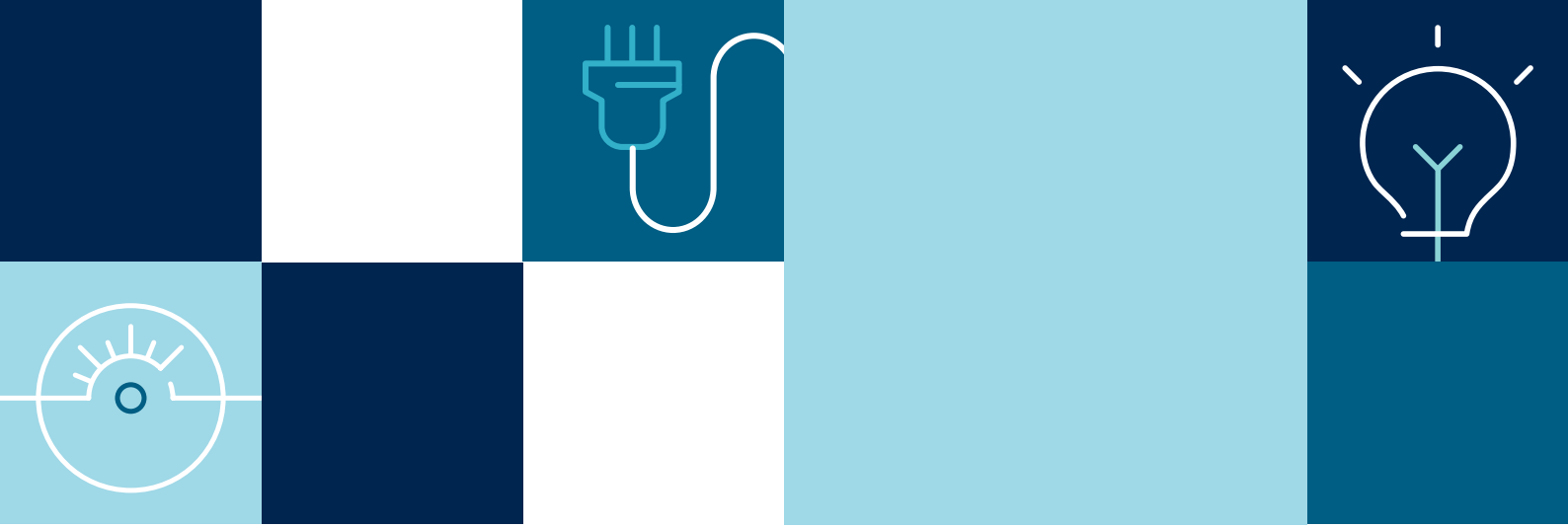
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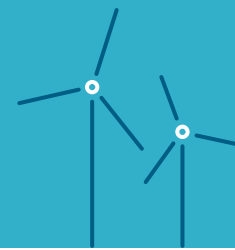
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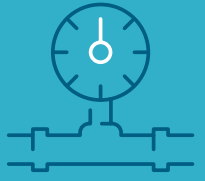
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Tender Guidelines





Introduction

These Tender Guidelines (Guidelines) provide information to prospective Proponents planning to participate in Tender Rounds pursuant to a tender conducted in accordance with the *Electricity Infrastructure Investment Act 2020* (NSW).

This information will support Proponents in the preparation of high quality and competitive Bids.

LTESAs and Access Rights are new products and these Guidelines include background and additional information to explain these products and the allocation process. Guidelines for future Tender Rounds are not expected to require the same level of background information and may be amended, simplified and/or presented in a different format.



Important Note: Access Rights, and the parts of these Guidelines which relate to the granting or increasing of Access Rights (AR References), will form part of this Tender Round, subject to Section 1.3. [Section 1.3](#) specifies when the AR References are operative (i.e. to enable Access Rights to form part of a Bid), and this document should be read accordingly.

1.1 About AEMO Services

AEMO Services is an independent subsidiary of the Australian Energy Market Operator (AEMO) and is a key partner in the implementation of the NSW Government's [Electricity Infrastructure Roadmap \(Roadmap\)](#) through its appointment as the NSW Consumer Trustee.

In its foundational role as the NSW Consumer Trustee, AEMO Services is helping bring to life the Roadmap through the delivery of competitive tenders for LTESAs and Access Rights, coordinated planning of long-term investment in electricity infrastructure, authorisation of Renewable Energy Zone network infrastructure and financial risk management and advice.

Central to this mandate is the requirement to act in the long-term financial interests of NSW electricity customers. This responsibility is at the core of everything that AEMO Services does to improve the affordability, reliability security and sustainability of electricity supply for NSW electricity customers.

1.2 About Tender Rounds

Tender Rounds are used to select quality Projects capable of delivering electricity infrastructure that is in the long-term financial interests of NSW electricity customers.

The Consumer Trustee uses the [IIO Report](#) to set out the quantum of generation and LDS needed to achieve legislated investment objectives, and the indicative volume of Projects required from each Tender Round to support this.

The Consumer Trustee has adopted the tender design principles below to deliver the investment required from each Tender Round:

Open to NSW

Tender Rounds are open to all Projects that meet the Eligibility Criteria in the NSW region of the NEM to maximise participation in each Tender Round, including new market participants in subsequent Tender Rounds that have not previously participated in a Tender Round.

Multiple Products available

Multiple Products are available in each Tender Round enabling Proponents to seek the most appropriate Product, or combinations of Products, in accordance with their risk profile and Project development stage, subject to eligibility. For Tender Round 1, LTESAs are available for Generation and LDS Projects, and subject to [Section 1.3](#) Access Rights for CWO REZ.

Flexible LTESA capacities

In any Tender Round, the Consumer Trustee has the discretion to recommend LTESAs for greater or lesser capacity than that indicated in the IIO Report, providing flexibility to adjust to market signals in a competitive environment. In exercising its discretion, the Consumer Trustee acts in the long-term financial interests of NSW electricity customers.

Regular Tender Rounds

The Consumer Trustee has a rolling 10-year plan for competitive tenders under the IIO Report. The frequency of Tender Rounds allows Proponents to choose when to Bid based on the maturity of their Projects. This flexibility is expected to deliver higher quality Bids. It also gives the Consumer Trustee the flexibility to accommodate recent trends and changes in electricity infrastructure technology, the National Electricity Market as well as consumers and market participant behaviour.

Certainty and transparency of process

The tender process is designed to provide certainty to Proponents. A clear consistent process supported by comprehensive and strategic information delivery is expected to attract more Proponents and yield higher quality and more competitive Bids.

1.3 CWO REZ Access Rights as part of a Bid in Tender Round 1

A Tender Round can include the granting or increasing of Access Rights; when:

- either:
 - an Access Scheme Declaration is made for a REZ that provides for situations in which the Infrastructure Planner may grant or increase an Access Right based on a recommendation from the Consumer Trustee; or
 - the Infrastructure Planner requests the Consumer Trustee to conduct a competitive tender in relation to granting or increasing Access Rights under an Access Scheme for a REZ;⁸ and
- the Consumer Trustee has published a notice on the Consumer Trustee website for the applicable Tender Round specifying that fact and any further details and stipulations as may be required (AR Operation Date).

Prior to the AR Operation Date for a REZ:

- these Guidelines and any associated materials, are to be read down to the extent they refer to any functions or activities of the Consumer Trustee relating to Access Rights for the REZ;
- no Access Rights for the REZ will form part of a Bid.

The Consumer Trustee may make any further amendments to these Guidelines (including issuing of Addenda) following the application of these Guidelines to Access Rights for a REZ.

⁸ EII Regulation, reg 42A.

1.4 Structure of this document

Section with hyperlink	Content
Tender Round 1 details	Provides specifications for the Tender Round, including available Products, size, tender dates and applicable fees.
Tender Guidelines	Provides information applicable to all Tender Rounds. Subsections in the Guidelines include information that may apply across all Tender Rounds, and amendments will be made as required for each Tender Round.
Section 1: Introduction	Introduction to AEMO Services, structure of the Guidelines and the Tender Rounds.
Section 2: LTESAs and Access Rights	Descriptions of the Products that may be tendered in any Tender Round.
Section 3: Tender and assessment process	Describes the steps of the tender and of assessment processes from the Registration for the Tender Round to the award LTESAs by the Scheme Financial Vehicle (SFV) and granting of Access Rights by EnergyCo as Infrastructure Planner. Detailed instructions to Proponents on requirements to respond to the Eligibility and Merit Criteria (as prescribed in the Tender Rules).
Section 4: Assessment Criteria	Includes the Eligibility Criteria that must first be met before being competitively assessed against Merit Criteria and information and evidence that must be provided by Proponents to demonstrate the merit of their Bid in the assessment process.
Section 5: Tender Conditions	Legal terms and conditions applicable to these Guidelines and the Tender Round.
Section 6: Regulatory context	Background on AEMO Services as the NSW Consumer Trustee and other entities under the NSW Electricity Infrastructure Roadmap, applicable legislation and regulatory landscape that govern the Tender Rounds.
Project Documents	Includes proforma Project Documents applicable to all combinations of Products.
Glossary	

LTESAs and Access Rights



Two Products are available to Proponents – LTESAs and Access Rights – there are three types of LTESAs.

The Guidelines for each Tender Round will specify the types and combinations of Products available in any given [Tender Round](#).

Subject to Section 1.3 (which determines when Access Rights may be available), Proponents may seek an:

- LTESA if they are seeking financial support; or
- Access Right if they intend to connect to an Access Rights Network as defined in the Access Scheme Declaration for that REZ; or
- Access Right and LTESA if they are both seeking financial support and intend to connect to an Access Rights Network as defined in the Access Scheme Declaration for that REZ.



Important Note: Access Rights, and the parts of these Guidelines which relate to the granting or increasing of Access Rights (AR References), will form part of this Tender Round, subject to Section 1.3. [Section 1.3](#) specifies when the AR References are operative (i.e. to enable Access Rights to form part of a Bid), and this document should be read accordingly.

LTESA is a financial derivative contract between an LTES Operator and the [SFV](#) that is intended to provide an LTES Operator with mitigation against unexpectedly low electricity prices and exposure to upside where electricity prices are higher. The LTESA achieves this by providing the LTES Operator with a series of options to enter into fixed length derivative arrangements.

There are three LTESA products:

- Generation LTESA
- LDS LTESA
- Firming LTESA

LTES Operator has the flexibility to exercise or not exercise each of its options, subject to the minimum notice period. A repayment mechanism also applies in certain circumstances and allows the SFV to recoup some of its previous payments when an LTES Operator earns profits beyond a threshold.

Access Right authorises an Access Right holder to apply to connect an approved Project to the REZ Access Rights Network, up to its allocated Maximum Capacity⁹, under a declared Access Scheme. Five [Renewable Energy Zones \(REZs\)](#) are planned across NSW, in Central-West Orana, Hunter-Central Coast, Illawarra, New England, and South-West.

Following connection approvals, the approved Project will be entitled to operate up to its allocated Maximum Capacity under its Access Right, in accordance with the National Electricity Rules (as modified by the NSW regulations) and any other relevant agreements.¹⁰

Subject to [Section 1.3](#), only CWO REZ Access Rights will be available for Tender Round 1.

Table 1: Summary of LTESA and Access Right features

Product type	Feature
<u>Generation LTESA</u>	<ul style="list-style-type: none"> • A series of 2-year options to enter a cash settled swap, for a contract term of up to 20 years. • Available to all Projects in NSW that became committed after 14 November 2019. • A repayment mechanism applies under certain circumstances.
<u>LDS LTESA</u>	<ul style="list-style-type: none"> • A series of 2-year options to receive an annuity payment, for a contract term of up to 14 years for chemical batteries and 40 years for pumped hydro. The contract term is the lesser of 40 years or asset life for any other LDS technologies. • Available to all Projects in NSW that became committed after 14 November 2019. • A repayment mechanism applies under certain circumstances.
<u>Firming LTESA</u>	<p>Details to be provided in future Tender Rounds.</p> <p>The Minister has directed the Consumer Trustee to conduct a Tender Round for LTESAs for firming infrastructure under section 47(2) of the EII Act. The Consumer Trustee may update the Tender Rules or Guidelines for future Tender Rounds as necessary and appropriate.</p>
<u>CWO REZ Access Right</u>	<p>Right to submit an application to connect to the CWO REZ Access Rights Network, and to operate an approved Project up to its allocated Maximum Capacity in accordance with the National Electricity Rules and the Project's Access Right Agreements.</p>

⁹ Maximum Capacity refers to the limit in megawatts of sent out generation that a Project is authorised to dispatch up to under their Access Right.

¹⁰ Other relevant agreements include, but are not limited to, the connection agreement, Project Development Agreement, project coordination agreement if held by the Access Right holder, and LTESA.



2.1 Generation LTESA

This section summarises the key features of the Generation LTESA

A Generation LTESA is a financial derivative contract that provides an LTES Operator with a series of options to access a Fixed Price, cash settled swap under the terms of the agreement.

The award of a Generation LTESA is conditional upon entry into and compliance with two primary contractual Project Documents:

- [Project Development Agreement \(PDA\)](#) – includes obligations on the LTES Operator to achieve Financial Close, and construct and commission the Project.
- [LTESA](#) – includes the specific terms of the derivative arrangements and ongoing operational obligations on the LTES Operator.

For Generation LTESAs awarded, the SFV will be the counterparty to the relevant Project Documents.

Table 2: Key commercial terms - Generation LTESAs

Term	Description
Maximum Capacity	The generation capacity that a Project intends to be registered with AEMO to dispatch up to into the NEM.
Contracted Percentage	The percentage of a Project's Maximum Capacity, and output, that is contracted to the LTESA.
Contract term	The period over which options to enter swap periods are available under the LTESA, commencing after the first option date.
Fixed Price	The fixed price per megawatt hour of the swap payment triggered on exercise of the option. The Fixed Price is in fixed nominal dollars and is not escalating.
Repayment Threshold Price	<p>A fixed price per megawatt hour higher than the Fixed Price, that is used to calculate potential repayments. The Repayment Threshold Price is in fixed nominal dollars and is not escalating.</p> <p>The repayment mechanism applies in non-exercise periods if the LTES Operator's Dispatch-Weighted Average Price (DWAP) is above the Repayment Threshold Price. Seventy-five (75) percent of the revenue above the threshold is paid to the SFV, which is capped at the historical cumulative net payments from the SFV to the LTES Operator and is reduced where the LTES Operator has entered an eligible contract.¹¹</p>
Option period	The fixed duration of the cash settled swap is two financial years except if there is only one year remaining within the contract term in which case it is one financial year. Option periods begin on 1 July and end on 30 June.
Exercise Notice period	Notice of intention to exercise an option must be provided at least 6 months, but not more than 12 months, prior to the beginning of an option period.
Contractual shape	Generation following, with the energy quantity of the swap based on the Project's dispatched generation measured at the NSW Regional Reference Node.
Green rights and other products (incl. capacity)	In exercise periods, the SFV is entitled to products or revenues from existing or new markets, including, applicable green rights (such as Large-scale Generation Certificates (LGCs)) and other economic rights conferred on the Project by regulation for its capacity or generation.
Negative price provision	The minimum wholesale price in swap payment calculations is set to zero.
Minimum Generation	In exercise periods, the LTES Operator must pay the SFV a shortfall sum if the Project's generation is below the Minimum Generation. It is set at an amount of energy in MWh equal to $75\% \times \text{forecast P90 annual sent-out generation for the relevant swap period}$.

¹¹ Under certain conditions, a PPA with an electricity off-taker would be an example for an eligible contract in a non-exercise year. Eligible Contract is defined in LTESA template long-form agreement.

2.2 LDS LTESA

This section summarises the key features of the LDS LTESA.

An LDS LTESA is a financial derivative contract that provides an LTES Operator with a series of options to access a variable annuity payment. If the option is exercised, the annuity payment will be in the form of a top up to net operational revenues achieved by the Project.

The award of an LDS LTESA is conditional upon entry into and compliance with two primary contractual Project Documents:

- [Project Development Agreement](#) (PDA) – includes obligations on the LTES Operator to achieve Financial Close, and construct and commission the Project.
- [LTESA](#) – includes the specific terms of the derivative arrangements and ongoing operational obligations on the LTES Operator.

For LDS LTESAs awarded, the SFV will be the counterparty to the relevant Project Documents.



Table 3: Key commercial terms - LDS LTESAs

Term	Description
Contract term	The period over which options to enter annuity periods are available under the LTESA, commencing after the first option date.
Annuity Cap	The annuity amount bid (in \$/year) in a Tender Round process, being the maximum annuity that may be paid by the SFV to the LTES Operator.
Net Revenue Threshold	A net revenue threshold in \$/year, above which additional provisions apply for the annuity payment and repayment mechanism.
Escalation	The Annuity Cap and Net Revenue Threshold escalate each year at the lesser of CPI or 3%.
Option period	The fixed duration of the cash settled swap is two financial years except if there is only one year remaining within the contract term in which case it is one financial year. Option periods begin on 1 July and end on 30 June.
Exercise Notice period	Notice of intention to exercise an option must be provided at least 6 months, but not more than 12 months, prior to the beginning of an option period.
Net Operational Revenue	Intended to cover all revenue streams for the Project that are received by the LTES Operator, netted off against permitted costs. This would include gross revenue generated through the wholesale energy market, ancillary markets, network support, any future emerging markets and any other eligible contracts, minus certain costs including the cost of purchasing energy to generate these revenues.
LTESA annuity payment calculation	The annuity payment is limited such that it equals the lesser of: <ul style="list-style-type: none"> • Annuity Cap, or • $\text{Annuity Cap} - 75\% \times (\text{Net Operational Revenues} - (\text{Net Revenue Threshold} - \text{Annuity Cap}))$.
Repayment mechanism	The repayment applies where the LTES Operator's net operational revenue is above its Net Revenue Threshold. The repayment mechanism has the following features: <ul style="list-style-type: none"> • Repayment applies to the amount by which net operational revenue exceeds the Net Revenue Threshold. • A standardised benefit-sharing percentage of 50% applies to the repayment calculation up to the maximum recovery. • Maximum recovery through the repayment mechanism is 100% of historical cumulative net payments from SFV to LTES Operator.

2.3 CWO REZ Scheme and Access Rights

This Section summarises the CWO REZ Access Scheme and Access Right. Key features are outlined in Table 4.

Table 4: Key features of CWO REZ Access Rights and Access Scheme

Term	Description
Access Right	
Maximum Capacity	For generation or storage Projects: the maximum sent out generation in MW for that Project during a capacity period, as recorded in the Access Right Register. For co-located hybrid infrastructure Projects: the maximum permitted output in MW recorded in the connection agreement for that Project during a capacity period, as recorded in the Access Right Register.
Maximum Capacity Profile	The Maximum Capacity of a Project during each capacity period.
Expected Capacity Profile	The Infrastructure Planner's forecast of a Project's available capacity over the relevant period determined in accordance with subclause 7(8) of the CWO REZ Access Scheme Declaration.
Aggregate Expected Capacity Profile	The aggregate of the expected capacity profiles of all relevant Projects, less the Infrastructure Planner's forecast profile of electricity consumption by any plant or equipment (other than approved Projects) connected to the Access Rights Network.
Access Right agreement	One or more agreements between the Infrastructure Planner or SFV and an eligible operator containing obligations relating to the development and operation of a Project, including the technical specification of the Project, development and construction milestones, social licence and community and employment purposes and outcomes and any terms and conditions of the Access Right. This may include a PDA and a project coordination agreement.
Connection agreement	One or more agreements between an Access Right holder and the network operator or other parties regarding the connection of an approved Project to the Access Rights Network.
Access fees	Each Access Right holder is required to pay fees, as determined by the Consumer Trustee, to the SFV. These fees include a component for community and employment purposes, and will be enforced contractually through the Access Right Agreements.

Continued on next page

Table 4: Key features of CWO REZ Access Rights and Access Scheme

Term	Description
Access Scheme	
Aggregated Maximum Capacity Cap	The cap on the aggregate maximum capacity of approved Projects during a capacity period, being the initial Aggregate Maximum Capacity Cap as amended from time to time under clause 8 of the draft CWO REZ Access Scheme Declaration, as recorded in the Access Right Register. This can only be updated following a Headroom Assessment.
Forecast Curtailment	Forecast curtailment on the Access Rights Network or a network element (as the case may be) determined by the Infrastructure Planner in accordance with Schedule 3 of the draft CWO REZ Access Scheme Declaration.
Target Transmission Curtailment Level	<p>The percentage, set out in subclause 9(1) of the draft CWO REZ Access Scheme Declaration, as applies to the Initial Term of the Access Scheme.</p> <p>The Infrastructure Planner may only grant an Access Right, or grant an increase to the Maximum Capacity of an Access Right holder's approved Project, where a proposed Project's expected capacity profile would not cause the forecast curtailment of the Access Rights Network to exceed the Target Transmission Curtailment Level.</p>
Headroom	The increase in aggregate maximum capacity that can be accommodated without resulting in forecast curtailment on the Access Rights Network exceeding the Target Transmission Curtailment Level, as calculated by the Infrastructure Planner in accordance with Schedule 3 of the draft CWO REZ Access Scheme Declaration.
Initial Term	<p>The period from the date the draft CWO REZ Access Scheme Declaration is published to the date that is 20 years after the date of the electrification of the first network element within the Access Rights Network, as notified by the Infrastructure Planner to the Consumer Trustee and Access Right holders under subclause 13(1) of the declaration.</p> <p>The Access Scheme has a term commencing from when the draft CWO REZ Access Scheme Declaration is set to 20 years following the date of the initial commissioning of the CWO REZ Access Rights Network. All CWO REZ Access Rights will expire at the end of this term unless the Infrastructure Planner notifies parties of an extension of this term.</p>
Access Rights Network for the CWO REZ Access Scheme Declaration	The electricity network described in Schedule 1 of the draft CWO REZ Access Scheme Declaration.

2.3.1 CWO REZ Access Scheme outline

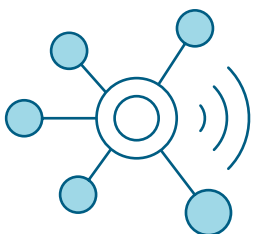
The [CWO REZ](#) was formally declared by the Minister on 5 November 2021. The CWO REZ Access Scheme has been designed by EnergyCo with the objective to coordinate the delivery of network, generation and storage investments and provide value to generators, the CWO REZ local community and benefits to NSW electricity customers through:

- Limiting physical capacity connected to the REZ Access Rights Network based on a Target Transmission Curtailment Level and an Aggregate Maximum Capacity Cap. This should improve the ability to forecast locational price signals such as Marginal Loss Factors (MLF) and curtailment.
- A tailored and streamlined REZ connections process, which may be implemented after the declaration is gazetted but before any prospective Access Rights holders commence the connection process, through batching of power system studies; [REZ Access Standards](#), including generator performance standards and inverter-based resource standards; and a centralised system strength solution. This should improve certainty of connection timeframes and reduce costs compared to the existing connection process.
- Using the community and employment components of the Access Fee (payable by Access Right Projects) to foster CWO REZ community support and fund community and employment programs that benefit the local community.

As Infrastructure Planner, EnergyCo must undertake a headroom assessment as soon as practicable following the completion of the Initial Allocation. This headroom assessment will determine the extent to which additional Maximum Capacity could be granted in Access Rights without forecast curtailment exceeding the Target Transmission Curtailment Level. The Infrastructure Planner may determine a value to be made available that is less than the headroom value identified in this assessment.

Once the Initial Allocation has been completed, the Infrastructure Planner may grant Access Rights at its discretion, noting other requirements outlined in the draft CWO REZ Access Scheme Declaration.

To support the delivery of the CWO REZ Access Scheme, EnergyCo, as the REZ Scheme Administrator, must maintain an Access Rights' register that includes all relevant detail in relation to each Access Right. Registration on the Access Rights' register is evidence of a grant of an Access Right.



The CWO REZ Access Scheme is a limited physical connection model with a single tier of CWO REZ Access Rights for the scheme duration.

2.3.2 CWO Access Rights

Under the draft CWO REZ Access Scheme Declaration, a CWO REZ Access Right authorises the Access Right holder to:

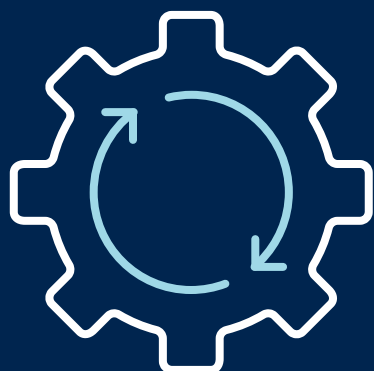
- Apply to connect the Project to the Access Rights Network, in accordance with the terms of any applicable Access Right Agreement and the National Electricity Rules.
- To send out generation from the approved Project to the Access Rights Network up to its Maximum Capacity for the relevant capacity period, in accordance with the terms of any applicable Access Right Agreement, the relevant connection agreement, and the National Electricity Rules.
- The previous points do not in any way limit AEMO's central dispatch process, or its ability to dispatch a Project above its Maximum Capacity for any reason, including but not limited to a lack of reserve notice under the National Electricity Rules.

Table 5: CWO REZ Information

CWO REZ Declaration	Published by the Minister for Energy ¹² in the NSW Government Gazette , and provides the intended network capacity, geographical area and specified network infrastructure for the CWO REZ.
Draft CWO REZ Access Scheme Declaration	Published by the Minister for Energy on 15 July 2022.
CWO REZ Information Pack	<p>Proponents seeking Access Rights will be able to access the following information by accessing a dedicated data room. The instructions to access the data room is available at the EnergyCo website.¹³</p> <ul style="list-style-type: none">• substation location and ratings.• capacity and impedance of high voltage lines.• transmission network schematic.• REZ commissioning.• network operational performance standards.

¹² under section 19(1) of the EII Act.

¹³ energyco.nsw.gov.au/index.php/industry/access-right-tender-updates



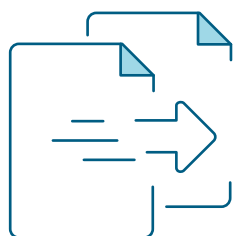
Tender and assessment process

All Tender Round Bids are subject to the same assessment process, irrespective of the Product(s) being sought.

This section outlines the tender and assessment process that applies to all Proponents. The Consumer Trustee may vary this process, including cancelling the tender, where the Consumer Trustee considers that this is necessary to meet the long-term financial interests of NSW electricity customers. Proponents and Projects for each Tender Round are required to demonstrate compliance with the [Eligibility Criteria](#) before being competitively assessed against the [Merit Criteria](#).

The Consumer Trustee's assessment process considers, as its primary consideration, the extent to which a Bid offers financial value and is otherwise consistent with the requirements under the EII Act, including that its recommendation is in the long-term financial interests of NSW electricity customers.

An overview of the tender process is illustrated in Figure 1.

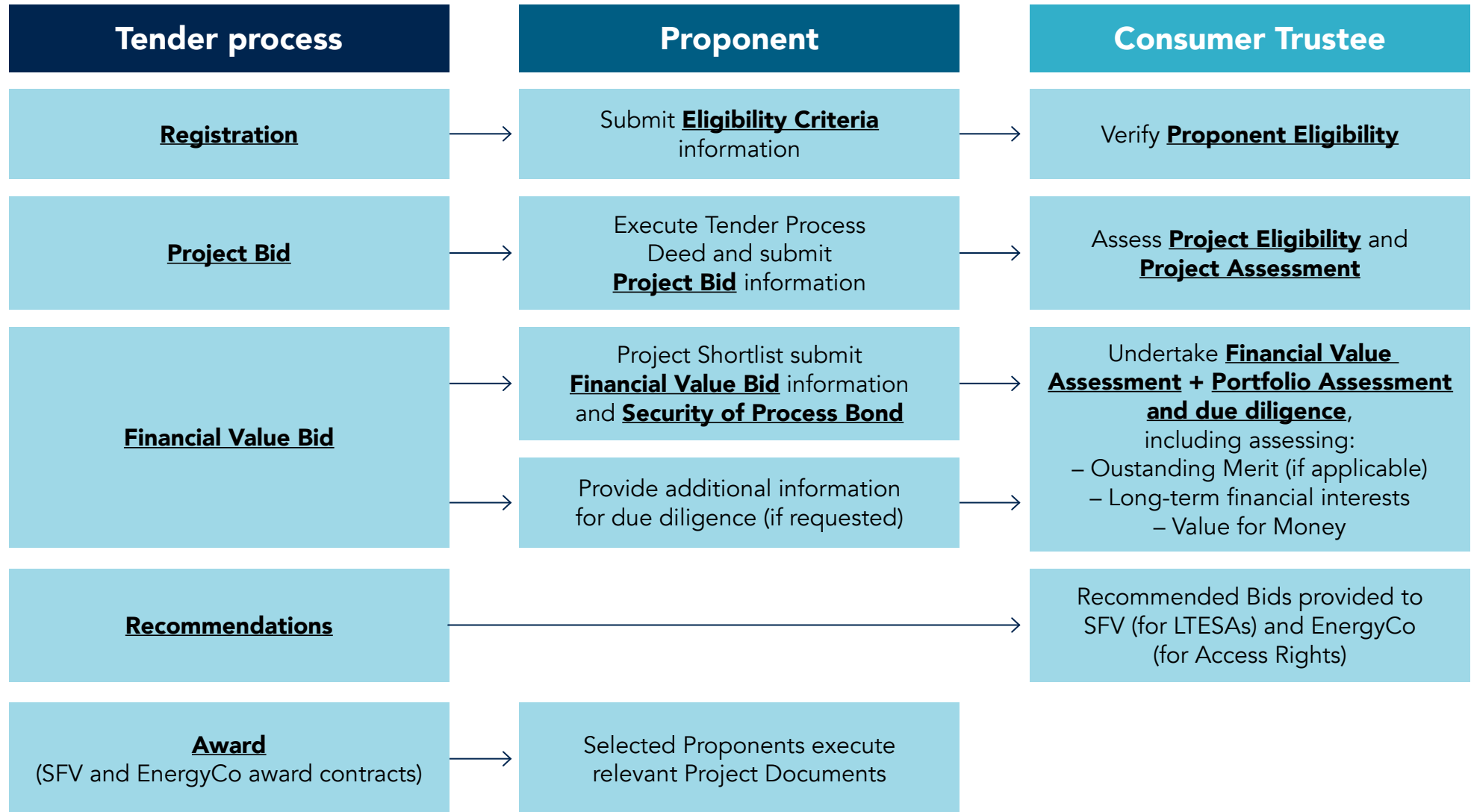


Access to prior Proponent information for subsequent Tender Rounds: The Consumer Trustee intends to maintain and retain Proponent and Project information in a way that saves time and simplifies participation for Proponents that have multiple Projects and may apply across multiple Tender Rounds. The aim is that Proponents will be able to review and adapt historical information in future Tender Rounds.

Figure 1: Overview of tender process



Select relevant step to learn more



3.1 Tender process

3.1.1 Submission of Bids and documents

Proponents must submit their Bids in two stages- [Project Bid](#) and [Financial Value Bid](#). Bids must be submitted via an electronic application form, supported by completed Returnable Schedules and other specified documents to be uploaded on the Consumer Trustee's [website](#). Further details on the information and supporting documents required at each Bid stage is provided in the remainder of this section and [Section 4 - Assessment Criteria and Bid documentation](#).

Tender Process Deed

Proponents seeking to participate in the Tender Round are required to enter into a deed to govern the terms of engagement during the tender process for the Tender Round (Tender Process Deed).

The [Tender Process Deed](#) must be executed at the Project Bid stage and contains customary provisions regarding the tender process, obligations relating to the protection of confidential information and limitations of liability. The Tender Process Deed also governs the arrangements for the provision of, and recourse to, the Security for Process Bond required as part of the submission of a Financial Value Bid.

Security for Process Bond

The terms governing the Security for Process Bond are set out in the Tender Process Deed. The Security for Process Bond is \$4,000/MW, capped at \$800,000 per Project, irrespective of whether the Proponent is seeking LTESA and/or an Access Right. The MW used for calculating the Security of Process Bond is the Project's intended Maximum Capacity. If there is more than one Bid Variable for Maximum Capacity submitted as part of the Bid, the Process Bond Amount will be calculated on the basis of the greatest Bid Variable for Maximum Capacity for that Bid.

Proponents will be required to provide the [Security for Process Bond](#) at the time of submitting a Financial Value Bid. This bonding is intended to mitigate the risk against a Proponent being successful in the Tender Round but then failing to sign relevant Project Documents reflecting the successful Bid. Financial Value Bids must be capable of acceptance by the SFV for the Validity Period. Subject to the terms of the Tender Process Deed, an unsuccessful Proponent in a Tender Round, or a Selected Proponent that duly enters into the relevant Project Documents and provides the Initial Security, will have the Security for Process Bond returned.

Security for development and construction is also required to be provided by the party to the PDA within 5 Business Days of contract execution. This security is intended to provide collateral where a Project fails to meet Financial Close or commercial operation or fails to meet certain other obligations, in accordance with the relevant Project Document. The terms governing the provision of this security are set out in the PDA.

Q&A process

To facilitate the Tender Round, the Consumer Trustee will operate a limited online question and answer process. Proponents may submit clarification questions to the Consumer Trustee no later than 14 Business Days prior to the:

- Corresponding [Project Bid Closing Date and Time](#) (during Project Bid preparation commencing from the Tender Registration Date).
- [Financial Value Bid Closing Date and Time](#) (during Financial Value Bid preparation).

Questions should be prepared in a manner that would not disclose any sensitive or confidential information of the Proponent. The Consumer Trustee will aim to respond to questions within five (5) Business Days (subject to the number, materiality and complexity of questions received) and share deidentified questions and clarifications with all Proponents.

Please note that, the Consumer Trustee:

- is under no obligation to answer any question and, any responses will be governed by the Tender Conditions.
- the Q&A process will be on hold over the period between 20 December 2022 and 6 January 2023 and will be recommenced after this period.
- will endeavour to make responses available to all Proponents (without identifying the party that submitted the relevant question).
- understands that some specific questions or responses (e.g., regarding a particular Project) are sensitive and it would be appropriate not to circulate the response. If a Proponent does not wish a question or response to be made available to others, it must identify the question as 'Commercially sensitive – not for circulation', together with an explanation of why the information is Project specific and sensitive for the Consumer Trustee to consider. The Consumer Trustee may, in its absolute discretion, decide whether to answer the question, including if a generic answer may still be given to all Proponents. The Consumer Trustee may seek probity advice to guide this decision.

Late Bids

Project Bids received after the Project Bid Closing Date and Time and Financial Value Bids received after the Financial Value Bid Closing Date and Time (Late Bids) may be accepted at the discretion of the Consumer Trustee. The Consumer Trustee may admit Late Bids for assessment if:

- actions or omissions by the Consumer Trustee caused the delay in submission; or
- the Proponent can clearly document to the satisfaction of the Consumer Trustee that an event of exceptional circumstances caused the Bid to be lodged after the closing time.

In these cases, the Consumer Trustee, in its absolute discretion, will determine the acceptance of a Late Bid and will only do so if accepting a Late Bid would not compromise the integrity of the Tender Round.

Extensions

At its discretion, the Consumer Trustee may grant an extension of time to all Proponents.

Additional instructions or materials

The Consumer Trustee may issue additional instructions or materials such as Returnable Schedules or legal documentation (e.g. LTESA or PDA documentation) ahead of the relevant [Project Bid Closing Date and Time](#) or [Financial Value Bid Closing Date and Time](#). These additional instructions or materials can be issued at the Consumer Trustee's absolute discretion.

Accuracy and completeness of information

Proponents must ensure that all required information is complete and accurate. All Proponents should note section 74 of the EII Act, which prohibits the giving of false or misleading information with penalties applicable to individuals and corporations. If a Proponent cannot provide any of the required information, this must be stated in the Bid and reasons given.

If the required information is not complete or is provided in a format inconsistent with the requirements of these Guidelines, the Consumer Trustee may seek supplementary information or clarification from Proponents; or may assess the Bid as Non-Compliant. Non-Compliant Bids may not be considered further, at the Consumer Trustee's discretion.

External advice

The Consumer Trustee may seek advice or support from subject matter experts and advisers. The Consumer Trustee's subject matter experts and advisers will be subject to market standard obligations to the Consumer Trustee (for example, regarding confidentiality, conflicts and probity).

The role of EnergyCo and other relevant entities

When undertaking the Tender Round, the Consumer Trustee may seek input, or will receive, advice and inputs from a range of credible parties.

As [Infrastructure Planner](#), EnergyCo will provide advice to the Consumer Trustee on Bids seeking Access Rights in relation to limitations that are set under the relevant REZ [Access Scheme Declaration](#). EnergyCo may also provide the Consumer Trustee with technical input as a subject matter expert on Access Rights and matters related to Merit Criteria and Portfolio Assessment for Proponents located within a declared REZ geographical boundary.

As NSW transmission planner, TransGrid will provide input on the expected network impacts of Projects. AEMO will also provide input as the system operator.

The Consumer Trustee will engage with these and other relevant entities in the context of its obligation to act independently and in the long-term financial interests of NSW electricity customers under the EII Act.

3.1.2 Registration

Registrations for each Tender Round will be open from the [Tender Registration Date until the Project Bid Close Date and Time](#). Each Tender Round will be announced and made available through the Consumer Trustee's [website](#).

All Proponents must provide information to satisfy the Proponent Eligibility Criteria via an online application form. Proponents will be able to attach their Proponent information to multiple Projects, and to carry this information forward to future tenders.

Tender step	Information to complete (including hyperlink)	Bid status
Registration	Proponent Eligibility Criteria Criteria to ensure that Proponents possess the requisite technical, financial, legal and commercial capabilities to be able to deliver the Project.	Eligible Proponent



3.1.3 Project Bid

From the [Tender Commencement Date](#), Eligible Proponents who have registered for the Tender Round will be granted access to the online forms and Returnable Schedules needed to complete their Project Bids. Proponents will be required to submit an executed Tender Process Deed with their Project Bid.

Tender step	Information to complete (including hyperlink)	Bid status
Project Bid	Tender Process Deed	Eligible Proponent
	Project Eligibility Criteria Criteria to ensure that only Projects at an appropriate stage of development progress to assessment against the Merit Criteria	Assessed against Project Merit Criteria
	Project Merit Criteria	Project Shortlist
	 Merit Criteria 3 – Impact on electricity system	
	 Merit Criteria 4 – Pathway to commercial operation	
	 Merit Criteria 5 – Organisational capacity to deliver Project	
	 Merit Criteria 6 – Land use considerations	
	 Merit Criteria 7 – Community engagement and benefits	
	 Merit Criteria 8 – Regional economic development	

Treatment of future commitments related to social licence

Merit Criteria 6, 7 and 8 encompass social licence commitments. Proponents are required to update a schedule in the relevant Project Document and submit this with their Bid. These commitments will be binding and subject to contractual monitoring and enforcement regimes under the relevant Project Documents. The enforcement regimes are intended to ensure Proponents make consistent efforts toward meeting their commitments but provides for substitution of social licence commitments in exceptional circumstances where commitments become impossible or unreasonable to meet.

Note that Proponents planning to submit an [Alternative Product Bid](#) for an Access Right only must indicate their intention to do so with their Project Bid submission. The process for these Alternative Product Bids is as follows:

- Proponents will be required to submit two responses to [Merit Criteria 4](#) at the Project Bid stage – one response corresponding to their Default Financial Value Bid (for an LTESA and Access Right), and one response corresponding to their Alternative Product Bid (for an Access Right only).
- This is required to enable the Project's pathway to Financial Close with and without an LTESA to be assessed.
- Both responses to Merit Criteria 4 will be assessed during the [Project Assessment](#).

3.1.4 Project Assessment

The Project Assessment applies to all Project Bids, irrespective of the [Products](#) being sought. Its purpose is to select a shortlist of Project Bids (Project Shortlist) to progress to the Financial Value Bid stage.

Assess Project Eligibility Criteria

- The Eligibility Criteria are designed to ensure that only Project Bids at an appropriate stage of development are assessed for merit.
- Project Bids must satisfy all the [Project Eligibility Criteria](#) to be progressed to assessment against the [Project Merit Criteria](#).

Bids that do not satisfy the Project Eligibility Criteria may not progress to the Financial Value Bid stage

Assess Project Merit Criteria

- Project Bids will be assessed and scored against the [Project Merit Criteria](#).
- Project Bids will be shortlisted based on aggregated Project Merit Criteria scoring. The aggregated score will be calculated as the sum of the weighted average score of each Project Merit Criteria.
- Lower scoring Project Bids that are not shortlisted may not progress to the Financial Value Bid stage.
- Higher scoring Project Bids (Project Shortlist) will be progressed to the [Financial Value Bid](#) stage.

Alternative Bid

During the Financial Value Bid stage, Proponents may submit a maximum of one [Alternative Bid](#).

Proponents may choose to submit one of the following:



- an Alternative Financial Value Bid where only the prescribed Bid Variables are adjusted and the Product combination remains unchanged; or
- an Alternative Product Bid, where the Product selection is changed to an Access Right only.

Alternative Product Bids

- Proponents that intend to submit an Alternative Product Bid, must select this option at the Project Bid stage and provide additional information requested in [Merit Criteria 4](#) relevant to the Alternative Product Bid.
- For the avoidance of doubt, this additional information will not be considered in the development of the Project Shortlist.
- If the Proponent is invited to submit a Financial Value Bid, this additional information may be considered as outlined in [Financial Value Assessment](#).

3.1.5 Financial Value Bid

The Project Shortlist will receive an invitation to submit a Financial Value Bid, together with the relevant Returnable Schedules. [Alternative Bids](#) will be assessed against the same set of [Financial Value Merit Criteria](#).

Step	Information to complete (including hyperlink)	Status of Bids progressed
Financial Value Bid	 Merit Criteria 1 – Financial value	Financial Value Shortlist
	 Merit Criteria 2 – Commercial departures	
	Provide Security for Process Bond	

Default Financial Value Bid

Proponents in the Project Shortlist must submit the online application form and corresponding Returnable Schedules. Proponents must submit their Default Financial Value Bid:

- Aligned with prescribed Default Financial Value Bid Variables as outlined in [Tender Round 1 details](#).
- Include completed Returnable Schedules and marked up Project Documents.
- Include the [Security for Process Bond](#).

Alternative Financial Value Bids

Proponents may also submit one Alternative Financial Value Bid, provided that they are not submitting an Alternative Product Bid. An Alternative Financial Value Bid is in addition to the Default Financial Value Bid without additional [Security for Process Bond](#) requirements. This is intended to provide flexibility for Proponents to develop more competitive Alternative Financial Value Bids reflecting alternative commercial terms. Proponents must submit their Alternative Financial Value Bid:

- Aligned with prescribed Alternative Financial Value Bid Variables as outlined in [Tender Round 1 details](#).
- Using a separate set of Returnable Schedules for Merit Criteria 1 and 2 to be submitted concurrently with the Default Financial Value Bid.

The Consumer Trustee may, at its discretion, amend or request that shortlisted Proponents amend the permitted Bid Variables or number of Alternative Financial Value Bids in a Tender Round, at any stage of the tender process. In these cases, all the shortlisted Proponents at the relevant stage of assessment will be notified of the conditions and timeframe to prepare their Alternative Financial Value Bids.

Alternative Product Bids

Proponents may also submit one Alternative Product Bid, provided that they are not submitting an Alternative Financial Value Bid. An Alternative Product Bid is in addition to the Default Financial Value Bid without additional Security for Process Bond requirements. This is intended to provide flexibility for Proponents to bid for an Access Right only, where the Project is able to demonstrate the ability to reach Financial Close without an LTESA.

Proponents must also submit a separate set of completed Returnable Schedules for Merit Criteria 1 and 2, where applicable, concurrently with the Default Financial Value Bid.

Merit Criteria 2 – Commercial departures

Proponents can propose departures to each of the Project Documents. Proponents must submit a:

- Completed departure table (Returnable Schedule), including the reason for requesting each departure.
- Marked-up version of the relevant [Project Documents](#) with their proposed changes in a form that is ready for acceptance.

3.1.6 Financial Value Assessment

Financial value is the primary consideration for the Consumer Trustee when assessing Financial Value Bids.¹⁴ The purpose of the Financial Value Assessment is to determine the highest ranking Financial Value Bids (Financial Value Shortlist) to progress to the Portfolio Assessment.

The Financial Value Assessment will be conducted against Merit Criteria 1 and 2 on all Financial Value Bids, including any Alternative Bids.

Assess Merit Criteria 1

[Merit Criteria 1](#) will be assessed using the Bid Variables and the Project information provided by Proponents.

The assessment of Merit Criteria 1 will consider the following aspects of a Bid:

- wholesale electricity costs;
- the costs of network infrastructure, including REZ network infrastructure projects, required to support the infrastructure that will be constructed and operated under the LTESA;
- the costs of other services associated with power system security;
- the payments that will be required to be made by the SFV under LTESAs; and
- other matters the Consumer Trustee considers relevant.¹⁵

Table 10 further outlines how these aspects will be practically assessed by the Consumer Trustee.

The Consumer Trustee will use a set of scenarios to consider multiple plausible outcomes in its scoring for Merit Criteria 1. Scenarios selected by the Consumer Trustee will change by Tender Round, and will contain permutations of:

- Electricity market outcomes.
- LGC price outcomes.
- LTESA exercise behaviour.
- Reference years.

Scenarios are developed internally by the Consumer Trustee to ensure Financial Value Bids can demonstrate value to NSW electricity customers across a range of future outcomes.

Scoring will be based on each aspect of Merit Criteria 1 and each modelled scenario.

Further guidance may be provided in the Merit Criteria 1 market briefing materials (if any).

Assess Merit Criteria 2

[Merit Criteria 2](#) assesses the materiality of any departures from the proforma Project Documents.

It is expected that Financial Value Bids with no requested departures from the proforma Project Documents will score the highest against this criteria, followed by any Financial Value Bids with minimal departures. Amendments that materially deteriorate the risk position of the SFV will result in a lower score or may restrict the Financial Value Bid from being considered any further in the assessment.

Assess Alternative Bids

Where an Alternative Financial Value Bid is submitted, this will be assessed in parallel to the Default Financial Value Bid, with the higher scoring Bid considered in the development of the Financial Value Shortlist.

Where an Alternative Product Bid is submitted, the Default Financial Value Bid will be assessed and competitively ranked against all other Financial Value Bids in the first instance. Should the Default Financial Value Bid not be included in the Financial Value Shortlist, the Alternative Product Bid will be assessed and considered against other Access Right only Bids.

For the avoidance of doubt, Alternative Product Bids will only be considered at the Financial Value Assessment stage if the Proponent's Default Financial Value Bid is not included in the Financial Value Shortlist.

Assess Non-REZ Financial Value Bids against Outstanding Merit

Projects seeking Generation LTESAs located outside of the geographical bounds of a REZ need to show [Outstanding Merit](#). Financial Value Bids for Generation LTESAs that do not meet this definition will not progress beyond this stage.

Where Outstanding Merit is applicable, the aggregated Merit Criteria score of the Non-REZ Project will be compared against the aggregated Merit Criteria score of the lowest scoring in-REZ Project recommended by the Consumer Trustee (if any). The Consumer Trustee expects that:

- In this circumstance, the Non-REZ Project must achieve a higher aggregated Merit Criteria score to pass the Outstanding Merit assessment.
- Non-REZ Financial Value Bids that pass the Outstanding Merit assessment will be considered on an equivalent basis compared to in-REZ Financial Value Bids in the finalisation of the Financial Value Shortlist.

See Section 6.5 for the elements and scope of [Outstanding Merit](#).

¹⁴ In accordance with section 48(2) of the EII Act.

¹⁵ EII Regulation, Reg 26(4).

Total Merit Criteria scoring and initial Portfolio composition

Based on the weighted scoring against all Merit Criteria, a Financial Value Shortlist will be developed and ranked. The initial Financial Value Shortlist 'cut-off' will be determined based on factors including:

- Size guidance in the IIO Report.
- Requirements of the Risk Management Framework.
- In the case of Access Rights, the Aggregated Maximum Capacity and Target Transmission Curtailment Level for relevant REZs.¹⁶

The final Financial Value Shortlist will be subject to adjustments based on the Value for Money assessment.

Value for Money assessment (VFM)

The Value for Money assessment looks at the overall economic contributions of a Project to NSW. Where two projects are equally or closely scored, the Consumer Trustee may use a Value for Money assessment to adjust the initial Financial Value Shortlist.

Based on any adjustments made following the VFM assessment, a final Financial Value Shortlist is expected to progress to Portfolio Assessment.

Value for Money Assessment (VFM)

The VFM assessment holistically considers the overall economic benefits that a Bid presents for NSW. This avenue is only available to Financial Value Bids that have not been included in an initial Financial Value Shortlist but have a marginal difference in score compared to the lowest scoring shortlisted Financial Value Bid (VFM Bid). Here, the Consumer Trustee has discretion to select the VFM Bid that is assessed to have the highest economic benefits to NSW for inclusion in the [Portfolio Assessment](#).

Where a VFM Bid has been selected, the Consumer Trustee has the discretion to recommend more than one of similar scoring Financial Value Bids if the evidence supports that this would be in the long-term financial interests of NSW electricity customers.

The VFM assessment will be undertaken using NSW specific Proponent contributions provided as part of the [Industry and Aboriginal Participation Plan \(IAPP\)](#). NSW specific contributions are based on goods and services procured from or value added in NSW as a percentage of total project contract value.

¹⁶ As determined by the Access Scheme Declaration for that REZ.



3.1.7 Portfolio Assessment and due diligence

The Portfolio Assessment examines the cumulative impacts of the Financial Value Shortlist to mitigate any aggregated adverse effects that arise from the Financial Value Shortlist.

Due diligence may be undertaken on selected Project Bids and Financial Value Bids. Due diligence is expected to be confirmatory only, with Proponents expected to provide the information needed to support all representations they make about their Project in order for their Bid to be compliant.

Tender step	Additional information to provide	Bid status
Portfolio Assessment and due diligence	The Consumer Trustee may request additional information as part of its due diligence.	Portfolio Shortlist

For transparency, Table 6 outlines the portfolio level adverse outcomes that will be considered in the Portfolio Assessment.

Table 6: How issues identified at Portfolio Assessment may be considered

Issue	Where this may impact a Financial Value Shortlisted Project	How this may be considered (at the Consumer Trustee's discretion)
Adverse network effects	Where multiple shortlisted Projects are in a similar geographic location.	<p>One or more Projects may be excluded from further consideration to avoid adverse network impacts where multiple shortlisted Projects are in a similar geographic location. These limits will be developed and applied at Portfolio Assessment, based on the Portfolio Shortlist.¹⁷</p> <p><i>Note: To support the Consumer Trustee's assessment of 'adverse network effects', EnergyCo (as Infrastructure Planner) will prepare a report detailing the different mix of Projects that could be granted Access Rights.¹⁸</i></p>
Adverse community effects	Where multiple shortlisted Projects without planning approval are in a similar geographic location.	One or more Projects may be excluded from further consideration to avoid cumulative impacts from multiple Projects which have the potential to significantly affect community support.
Supplier concentration risk	Where multiple shortlisted Projects are proposing to use the same contractors or original equipment manufacturers.	<p>This will initially be assessed at the Project level under sub-Merit Criteria 4 - Capacity to deliver. It is a risk assessment that is used to determine whether a supplier can meet its commitments to multiple successful Projects.</p> <p>At the Portfolio Assessment, more information may be sought by the Consumer Trustee to address any aggregate supplier capacity effects and it may not recommend one or more Bids to avoid supplier concentration risk.</p>
Counterparty concentration risk	Where several shortlisted Projects are proposed by the same Proponent, creating a material counterparty risk as determined by the Consumer Trustee.	<p>The Consumer Trustee may limit the number of Bids a Proponent can put forward in each Tender Round.</p> <p>In addition, the Portfolio Assessment step may consider aggregated risks associated with multiple contracts with a single counterparty, including related entities. It is a risk assessment that is used to determine whether a single Proponent can deliver multiple successful Projects.</p>
Other adverse effects	Where a shortlisted Project has a material detrimental effect to a higher ranked Project, as determined by the Consumer Trustee.	The Consumer Trustee will retain discretion to rule out Projects where they have material adverse impacts on other, higher scored shortlisted Projects.

¹⁷ For example: if significant amounts of coincident generation were shortlisted for a given area in a Tender Round, the Consumer Trustee may establish a geographical limit based on technical advice. This constraint would then limit the amount of new generation capacity awarded an LTEA in the area.

¹⁸ Within the limits set in the Access Scheme and in respect of the technical (or other) limits of each connection hub.

3.2 Consumer Trustee recommendation

The Consumer Trustee¹⁹ determines which Bids are recommended to the SFV (Recommended Bids).

The decision to recommend a Bid is at the discretion of the Consumer Trustee. The Consumer Trustee will only recommend a Bid where it considers that the recommendation would be in the long-term financial interests of NSW electricity customers (having regard to the assessment as a whole), and the recommendation satisfies or is consistent with all relevant statutory requirements and duties.²⁰

Note that recommendations for Access Rights to EnergyCo, as Infrastructure Planner, will also be made in line with the limitations that are set under the relevant REZ Access Scheme Declaration.²¹

In making recommendations to the SFV and Infrastructure Planner (as applicable), the Consumer Trustee board may be advised by and consider input from specialists and advisers (including both internal and external to the Consumer Trustee).

3.3 Award and contracting

Recommended Bids will be provided by the Consumer Trustee to the SFV (for LTESAs) and EnergyCo (as the Infrastructure Planner for Access Rights).

Selected Proponents will execute the relevant Project Documents with the SFV or EnergyCo (as applicable) as counterparty to the Project Documents.

All unsuccessful Proponents will be notified with an opportunity for feedback within probity considerations.

¹⁹ Being the board of AEMO Services Limited, as the appointed Consumer Trustee.

²⁰ For example, under EII Act s 48(2), the financial value of LTESAs is to be the primary consideration for the Consumer Trustee when making a recommendation. Additionally, the Consumer Trustee must take into account the non-financial value criteria when making a recommendation in respect of an LTESA (see EII Regulation, reg 30(3)).

²¹ EnergyCo may provide the Consumer Trustee with written advice on intended recommendations relating to the granting of Access Rights.



Assessment Criteria and Bid documentation

This section outlines the information and supporting documentation requirements for each Eligibility and Merit Criteria.

Proponents should ensure that all the requested supporting documentation is provided in their response to each Merit Criteria. Where specified, the Consumer Trustee will provide Returnable Schedules for the mandatory information.

The assessment criteria have been designed to enable the Consumer Trustee to assess and recommend Projects consistent with the EII Act.

4.1 Eligibility Criteria (EC)

4.1.1 Proponent Eligibility Criteria

Requirements for Proponents to meet the Proponent Eligibility Criteria are listed in Table 7.

Table 7: Proponent Eligibility Criteria

Item	Criteria
EC14	<p>The Proponent must hold an Australian Business Number (ABN) and must be:</p> <ul style="list-style-type: none">• an Australian entity duly incorporated under the <i>Corporations Act 2001</i> (Cth) and hold and comply with all necessary authorisations that are material to the conduct of the business of the Proponent, or• a Commonwealth entity under section 10 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth), or• an Australian local government or council. <p><i>Note: In some limited circumstances, a legal entity other than those listed above may be accepted as an Eligible Proponent. Any other entity that wants to participate must seek approval from the Consumer Trustee prior to submitting a Bid.</i></p>
EC15	<p>The Proponent must not be named as an organisation on the list of persons and entities on the Australian Department of Foreign Affairs and Trade Consolidated List.</p>
EC16	<p>The Proponent must propose one Bid Entity.</p>
EC17	<p>The Proponent must not be, or become, bankrupt, insolvent, or be in, or enter into, administration, receivership or liquidation, or take advantage of any statute for the relief of insolvent debtors at any time during the Tender Round.</p>
EC18	<p>The Proponent must not have had a judicial decision relating to employee entitlements made against it (not including decisions under appeal) and not have paid the claim.</p>
EC19	<p>The Proponent must not have been named as an organisation that has not complied with the <i>Workplace Gender Equality Act 2012</i> (Cth).</p>
EC20	<p>The Proponent must comply with:</p> <ul style="list-style-type: none">• obligations under employment contracts, industrial agreements, and awards• codes of conduct and practice relevant to conditions of service and to the relations between the Proponent and the employees employed by the Proponent, and• applicable Workplace Health and Safety legislation.
EC21	<p>The Proponent must hold all insurances required by law.</p>
EC22	<p>The Proponent has not, within the previous 10 years, been subject to an inquiry by the NSW Independent Commission Against Corruption (or an equivalent body in a jurisdiction in Australia) where a finding has been made against the Proponent, or the opinion has been reached that that the Proponent has engaged in corrupt conduct.</p>
EC23	<p>If the Proponent is a 'reporting entity' under the <i>Modern Slavery Act 2018</i> (Cth) the Proponent has registered a Modern Slavery statement with the Australian Border Force.</p>

4.1.2 Project Eligibility Criteria

Requirements for Projects to meet the Project Eligibility Criteria are listed in Table 8. Where a Product (shown in columns) contains a tick against a Project Eligibility Criteria (shown in rows), the specified criteria must be met to submit a Bid for the relevant Product.

Note: If a Proponent submits a Bid in respect of more than one Product, the Proponent must demonstrate that its Project meets the Project Eligibility Criteria as applicable to each of the Products.

Table 8: Project Eligibility criteria

Item	Criteria	REZ Access Right	Generation LTESA	LDS LTESA
EC1	Project must involve generation from a renewable energy source.	✓ ²²	✓	-
EC2	Project must have a generation capacity of not less than 30 MW. ²³	✓	✓	-
EC3	Project has not previously been awarded an LTESA or Access Right. ²⁴	✓	✓	✓
EC4	Project consists of storage units with registered capacity that can be dispatched for at least eight hours. ²⁵	-	-	✓
EC5	The Project is registered or must state in its application that it intends to register, with AEMO as scheduled or semi-scheduled (generation) in the NSW region of the NEM.	✓	✓	✓
EC6	Project is not identified as committed or existing in a generation information page published by AEMO on or before 14 November 2019.	✓	✓	✓
EC7	The Project must have received a Secretary's Environmental Assessment Requirements (SEARs) or if SEARs do not apply, have lodged a Development Approval application under the <i>Environmental Planning and Assessment Act 1979</i> (NSW) in relation to the Project.	✓	✓	✓
EC8	Projects must be in receipt of a connection agreement or an NSP response to a connection enquiry. ²⁶	-	✓	✓
EC9	Project must submit a Community Engagement Plan , that will become contractually binding upon award.	✓	✓	✓

Continued on next page

²² Storage projects seeking an Access Right will not be required to meet this eligibility criteria.

²³ This will not be applied for REZ Access Rights allocated after completion of the initial allocation as defined under the draft CWO REZ Access Scheme Declaration.

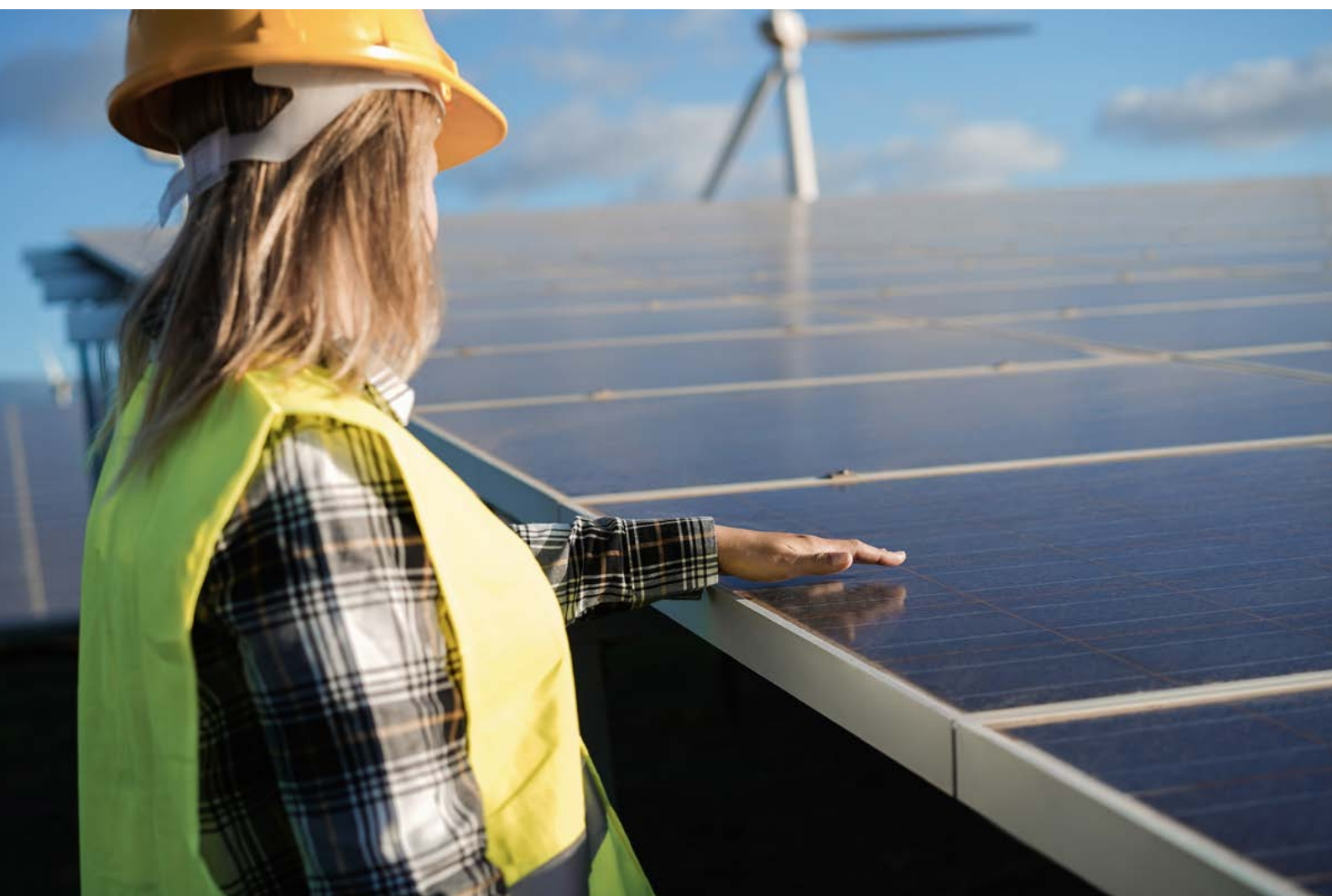
²⁴ Except where the Consumer Trustee is satisfied there are 'exceptional circumstances' which, if applicable, will be specified before conducting the relevant Tender Round: see EII Regulation, reg28(1)(b), (2) and (3).

²⁵ Short duration storage projects may apply for Access Rights only, subject to meeting the Eligibility Criteria.

²⁶ If both an LTESA and Access Right is sought, this eligibility criteria is not required to be met.

Table 8: Project Eligibility criteria

Item	Criteria	REZ Access Right	Generation LTESA	LDS LTESA
EC10	The Project is not in receipt of financial support in the form of project/revenue underwriting from prescribed programs. ²⁷ <i>Note: Projects in receipt of financial support for pre-investment activities are eligible.</i> There are no prescribed programs for Tender Round 1.	✓	✓	✓
EC11	The Project must not be subject to an order prohibiting connection to network infrastructure made under section 29 of the EII Act.	✓	✓	✓
EC12	The Project must provide an IAPP as part of its Bid, that will become contractually binding upon award.	✓	✓	✓
EC13	The Proponent must have all necessary rights to use any intellectual property required to carry out the Project.	✓	✓	✓



²⁷ The intent of this criterion is to exclude Projects that have already received a form of ongoing revenue support similar in nature to an LTESA.

4.2 Merit Criteria

Proponents will be assessed against each of the following Merit Criteria (MC), in accordance with the [Tender Rules](#).

Mandatory, essential, and optional information

Mandatory: the minimum information that Proponents must submit to participate in a Tender Round. The information (in the form of specific Eligibility Criteria, Returnable Schedules and attachments) supports the Consumer Trustee's Merit Criteria assessment. If the specified information is not complete or is provided in a format inconsistent with the minimum information requested, the Consumer Trustee may assess the Bid as Non-Compliant. Non-Compliant Bids may not be considered further, at the Consumer Trustee's discretion.

Essential: key information that Proponents are strongly encouraged to provide to maximise the competitiveness of their Bids. If the specified information is not provided, it will not result in a Non-Compliant Bid. At the discretion of the Consumer Trustee, not submitting 'Essential' information may result in a comparatively low score against the relevant Merit Criteria, and a low scoring Bid may not be further assessed.

Optional: additional information that Proponents may submit at their discretion to support their Bid.

4.2.1 Project Merit Criteria

The Project Merit Criteria and a description of how Proponents can demonstrate the merit of their Project, are listed below.

Further guidance on scoring approach for Default and Alternative Product Bids and weightings may be provided via market briefing materials (if any) prior to the [Tender Commencement Date](#).



Select the relevant Merit Criteria to learn more



MC3 – Impact on the electricity system



MC6 – Land use considerations



MC4 – Pathway to commercial operation



MC7 – Community engagement and benefits



MC5 – Organisational capacity to deliver Project



MC8 – Regional economic development



MC3 – Impact on the electricity system

Scope: assess the impact that each Project may have on other projects connected or expecting to connect prior to the Project, or impact on a planned REZ. This is intended to:

- ensure the Project is providing additional value to the system.
- encourage Projects to make locational and design decisions that minimise negative impacts on existing generators.

For Tender Round 1, Proponents seeking Access Rights are exempted from providing the mandatory or essential information for Merit Criteria 3 as the CWO REZ is not sufficiently developed for this information to be available or useful. Projects seeking Access Rights will be given a base score that reflects minimal impacts to nearby generators and have an opportunity to achieve a higher score through demonstrating a feature of the Project that reduces or improves its curtailment or MLF impact on nearby generators.

What is assessed	What is required ²⁸	What we are looking for
<p>Curtailement:</p> <p>Quality of the Project's network connection location, level of planned remediation and potential impact of the Project on technical curtailment of nearby large-scale generators. This does not include curtailment related to economic spill due to the dispatch optimisation process.</p> <p>Proponents should explain any features or characteristics of the Project (e.g. grid forming inverters or storage) or associated planned works which improves network capacity available or would likely improve technical curtailment outcomes for nearby large-scale generators.</p>	<p>Mandatory:</p> <ul style="list-style-type: none"> • Connection enquiry response (CER). <p>Optional:</p> <ul style="list-style-type: none"> • Proponents may provide curtailment studies procured from reputable providers which may include an indication of the Project's forecast impact on nearby large-scale generators. 	<p>Bids that bring additional value to the NSW electricity system without materially impacting existing generators.</p>
<p>MLF:</p> <p>Impact of the Project on the MLF of other projects over 30MW in NSW. Will the Project or any part of it or its associated works have the effect of reducing or improving the MLF of other projects over 30MW in NSW?</p> <p>Each Project will be scored based on its cumulative impact on the change in MLF for other projects over 30MW in NSW due to the Project's connection. This score will be based on the submitted information supported by internal analysis.</p>	<p>Essential:</p> <ul style="list-style-type: none"> • Quality MLF study preferably procured from a reputable provider.²⁹ The MLF study must include a forecast of the Project's own loss factor up to the year 2030 (this is the only mandatory component of the MLF study). The MLF study should also include as essential components: • Forecast the change in MLF for other projects over 30MW in the NSW region of the NEM. • Due to the connection of the Project. The MLF study should clearly show the impact on other projects (where that impact is a decrease or increase of over .005 to its MLF) for the Project's first full financial year of operation and the financial year 2027/28.³⁰ <ul style="list-style-type: none"> – indicate any key drivers of MLF changes over the forecast horizon. – explain any non-standard assumptions. 	

²⁸ Including Proponents for Projects that have reached Financial Close or COD.

²⁹ Where 'reputable provider' is referenced in this table, this is any consultant or service provider that has demonstrated relevant experience in providing similar energy market modelling services to support the development of energy projects in Australia.

³⁰ Where a project's first full year of operation is after 2027-28 provide only the forecast impact for the first full year of operation.



MC4 – Pathway to commercial operation

Scope: assesses feasibility of the Proponent:

- raising finance and reaching Financial Close (FC) and the Commercial Operations Date (COD) and considers any risks to timely Project completion, and
- acquiring investment and regulatory approvals, if applicable to the Project. Refer below for the scope of the approvals being considered.

Proponents should note that the target (or actual if applicable) FC and COD date should be identical across all information submitted by the Proponent in Project Bid and Financial Value Bid. Should the Proponent be successful in its Bid, these dates will be included in the milestone schedule of the relevant Project Document(s).

Foreign Investment Review Board (FIRB)

The Australian Commonwealth Government requires investment approval over certain types of acquisitions by 'foreign persons' of equity interests in Australian companies and unit trusts, other interests in Australian businesses and Australian real property assets under the *Foreign Acquisition and Takeovers Act 1975* (Cth) and the accompanying relevant regulations (FIRB Regime). As it relates to this Tender Round, approvals under the FIRB Regime might be relevant in terms of the tenure that Proponents are acquiring for their Project and the extent to which that tenure constitutes 'interest in Australian land' and / or 'interests acquired by entering agreements or acquiring options'.

The Proponent must provide the Consumer Trustee with confirmation and relevant information regarding any approvals under the FIRB Regime which may be required for a Proponent's Project. The Consumer Trustee recommends Proponents seek legal advice with respect to any such approvals.

Australian Competition and Consumer Commission (ACCC)

The *Competition and Consumer Act 2010* (Cth) prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in a market and other anti-competitive behaviour. Proponents should identify if there are any aspects of their Bid or development of the Project that raise competition concerns or would require approval or authorisation from the ACCC.

The Consumer Trustee may consult ACCC where competition considerations are relevant to a particular Bid.

What is assessed	What is required	What we are looking for
<p>Pathway to financing and construction:</p> <p>Proponents will be required to demonstrate financial capacity to support the development, construction and operation of the Project and progress towards reaching Financial Close.</p> <p>Alignment between the target date for achieving Financial Close and the plan to achieve the target COD will also be assessed.</p>	<p>Proponents are expected to provide evidence using the Essential and/or Optional attachments listed below to demonstrate the Project's ability to secure funding in line with the Proponent's Financial Close and COD dates.</p> <p>The attachments are expected to include information that demonstrates:</p> <ul style="list-style-type: none"> • Proven progress made with equity and debt financiers or Proponent's capacity and appetite to fund the Project; or • Demonstrated track record of the Proponent raising capital and/or engagement of external advisor with demonstrated track record to raise capital; or • Evidence that the Project will be attractive to equity and debt investors. <p>Essential:</p> <p>Plan to support Project development activities including:</p> <ul style="list-style-type: none"> • Development budget. • Project schedule. <p>Plan to support Project funding and construction including (where available):</p> <ul style="list-style-type: none"> • Funding strategy. • Financing structure with diagrammatic representation. • Letters of Support from debt or equity financiers to the Proponent. • Debt finance MOU, term sheets, correspondence (if available). 	<ul style="list-style-type: none"> • Can demonstrate a very clear pathway to raising finance and achieving Financial Close in the near-term and a clear pathway to achieve COD. Risks to timely Project completion are appropriately managed with clear and articulate mitigations. • Nearly finalised capital raising with sufficiently advanced financing negotiations, schedule and structure, and financial support documents. • Confirmation from the Proponent as to whether FIRB approval for the Bid or the Project is required with supporting information including Proponent's corporate structure particularly in relation to any foreign ownership interests. • Confirmation from the Proponent as to whether any, competition issues arise in relation to its Bid or Project, how they have been addressed and any, engagement with the ACCC that has occurred or will be required. • Outline of the Proponent's (and the Proponent's Related Bodies Corporate, affiliates etc) interests in relevant industries to understand if any competition concerns arise from cross ownership of energy assets. • Evidence of progress towards all relevant planning approvals and a pathway for securing. • Any outstanding planning approvals required to achieve the target COD for the Project. • Significantly advanced progress with the relevant NSP and AEMO in relation to the Project (except for Projects seeking an Access Right).

Continued on next page

What is assessed	What is required	What we are looking for
<p>Pathway to financing and construction (continued)</p>	<p>Essential (continued):</p> <ul style="list-style-type: none"> • Project revenue strategy including contracting plan and (if available) any offtake agreement term sheets or executed contracts. • Progress towards Foreign Investment Review Board Approval (if relevant) or statement with supporting evidence that it is not required. • Information about Proponent's corporate structure and foreign ownership (if relevant). • Information about any aspect of the Proponent's Bid or Project that raise competition concerns or require engagement with the ACCC. • Information about the Proponent's interests (including interests of the Proponent's Related Bodies Corporate, affiliates etc) in transmission, generation, distribution and retail activities in the NEM. • Risk register indicating key 5-10 development and construction risks and proposed mitigants/controls. • Evidence of resource assessment undertaken. • Evidence of contractor engagement and pathway to contracting (e.g. correspondence, term sheet, early works contracts, contracts with EPC, O&M, Asset Management). 	<ul style="list-style-type: none"> • Evidence of contractual arrangements, technical design summaries, and land and easement arrangements relating to construction activity for the Project. • Bids with incomplete Essential information and/or immature technology/ies are likely to score low on this Merit Criteria.

Continued on next page

What is assessed	What is required	What we are looking for
Pathway to financing and construction (continued)	Optional: <ul style="list-style-type: none"> • Project-delivery contracting structure and/or delivery model. • Project financial model. • Due diligence report from a credible technical adviser or law firm confirming that the Project has access to the necessary legal rights. • Evidence to support key revenue assumptions (such as market price forecast). • Technical Design Summary (plant and site layout). • Foreign exchange (FOREX) and interest rate risk plan. • Offtake agreement term sheets or executed contracts. 	Refer to MC4 pages above



MC4 – Pathway to commercial operation

What is assessed	What is required	What we are looking for
<p>Pathway to development approvals and securing land:</p> <p>Proponents should demonstrate their progress in obtaining planning approvals relating to the NSW planning assessment process and Commonwealth environmental assessment approvals, if required.</p> <p>If applicable, Projects must have received, applied for, or provide a credible plan for receiving approvals that may be required under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).</p>	<p>Essential:</p> <ul style="list-style-type: none"> Evidence of land access rights secured. For pumped hydro energy storage projects, progress made towards acquiring water licence. <p>Optional:</p> <ul style="list-style-type: none"> Environmental Impact Statement (EIS). Development Approval – lodgement notification. Development Approval. Land options agreement (executed). Land lease (executed). 	<p>Refer to MC4 pages above</p>
<p>Pathway to connection:</p> <p><i>Note: this element does not apply to Projects seeking Access Rights.³¹</i></p> <p>For Projects not seeking an Access Right, progress made by the Proponent toward obtaining a network connection agreement from the relevant NSP in line with the target COD will be assessed.</p>	<p>Mandatory:</p> <ul style="list-style-type: none"> Connection enquiry response (except for Projects seeking an Access Right). Identify approach to system strength. <p>Optional:</p> <ul style="list-style-type: none"> Evidence of progress of the Generator Performance Standards (GPS) package with AEMO. Section 5.3.4 Letter. Evidence of progress of AEMO registration process, e.g. R1 package. Network (Grid) Connection Agreement (or any related documentation). 	

³¹ Proponents seeking an Access Right will receive a base score for their pathway to connection as progress is dependent on the award of the Access Right and then progress with the Network Operator of the REZ.



MC5 – Organisational capacity to deliver Project

Scope: the capacity of the Proponent, its management, and personnel and its key suppliers and contractors (including relevant entities and key individuals) to:

- deliver the Project against time, quality and budget.
- engage with the relevant key stakeholders including the relevant communities, public authorities and regulatory entities (e.g. AEMO).

What is assessed	What is required	What we are looking for
<p>Proponent/consortium capability: of the relevant entities and Project, including the financial capability, engage constructively with the government bodies, coordinating bodies and the relevant communities, meet Project timeframes, manage risks and deliver the Project in accordance with industry best practice.</p>	<p>Essential:</p> <ul style="list-style-type: none"> • Credentials of the Proponent Assessment of the capacity and Project partners, and availabilities of each. <p>Optional:</p> <ul style="list-style-type: none"> • Commercial structure. • Audited financial statements. • Track record – capability and experience. 	<ul style="list-style-type: none"> • Evidence of outstanding track record for Proponent and delivery partners in delivering comparable. • Energy generation and/or storage Projects. • Demonstrate that key resources and delivery partners are qualified and available to deliver the Project. • A comprehensive commercial framework and transparent accounts that demonstrate financial stability for the key entities in the commercial framework. • Evidence of outstanding ability to operate the Project in accordance with requisite regulations and standards, and industry best practice. • Bids with incomplete Essential information are likely to score low on this Merit Criteria.
<p>Industry best practice operations: Proponents must demonstrate their ability to operate the Project in accordance with all relevant regulations and standards, and in alignment with industry best practice.</p> <p>Proponents should also demonstrate track record in meeting obligations to small business (SME) subcontractors and evidence of previous performance in meeting First Nations participation requirements.</p>	<p>Essential: Examples of paying small business subcontractors including payment terms.</p> <p>Optional:</p> <ul style="list-style-type: none"> • Operating manuals and/ or Standard Operating Procedures. • WHS framework. • For Proponents that EC23 do not apply to, any voluntary modern slavery statement registered with the Australian Border Force and/or any policies and processes on modern slavery compliance. 	



MC6 – Land use considerations

Scope: quality of site selection process, design process and identified land use opportunities as well as level of commitment to implement the opportunities.

This is not intended to duplicate the NSW Government planning approval process and land use considerations or to assess land use impacts, but rather to provide Proponents with an opportunity to highlight how they have considered the unique site-specific context in their site selection and design process.

What is assessed	What is required	What we are looking for
Land use consideration	<p>Mandatory: Project constraints map</p> <p>A project constraints map is a schematic that show the project layout and land use, environmental and cultural constraints in the area where the project is located.</p> <p>Optional: Land Use Plan</p> <p>Land use plan is expected to cover how the Proponent is planning to compliment, improve or enhance the use of land proposed or used for the Project.</p>	<p>Projects are expected to address one or more of the following focus areas:</p> <ul style="list-style-type: none">• Co-use of land e.g. agriculture, carbon farming.• Biodiversity initiatives and outcomes i.e. bush regeneration, re-vegetation for native flora and fauna and increasing water retention.• Cultural heritage considerations.• 'Matching' the site-specific features and landholders and/or local communities' needs to the opportunity.



MC7 – Community engagement and shared benefits

Scope: quality of engagement embarked on in the Community Engagement Plan and considers:

- IAP2 Spectrum of Public Participation.³²
- Community engagement and engagement strategies including for First Nations.
- Initiatives to share benefits with local communities.
- Involvement of community in the design or delivery of these initiatives.

Region-specific First Nations Guidelines are developed by a working group of local representatives and include:

- Goals and aspirations of a region.
- Outline of particular approaches to engagement.
- Any priority areas of employment and income opportunities for local communities. For example, the [CWO First Nations Guidelines](#) set out local priorities and key information that can be used by Proponents with Projects in CWO REZ.

What is assessed	What is required ³³	What we are looking for
Community Engagement	<p>Mandatory: Community Engagement Plan outlining:</p> <ul style="list-style-type: none"> • Evidence of active community engagement (including for First Nations) and • Strategies to foster local support throughout the lifecycle of the Project. • Demonstrate the use of best practice engagement approaches. 	<ul style="list-style-type: none"> • Comprehensive and well-designed and fit-for-purpose communication models leveraging a suite of engagement techniques reaching different segments of the community. • Projects working on higher levels of participation (e.g. 'involve', 'collaborate' or 'empower') will score higher for this merit criterion. • Demonstrate First Nations best practice engagement and place-based design including leveraging the First Nations Guidelines and where available Region Specific First Nation Guidelines, demonstrating culturally aware engagement that has led to or is intended to lead to establishing meaningful relationships with a wide range of representative bodies including where available with Regions Specific First Nation Working Groups, Aboriginal Land Councils, Native Title holders or applicants, Traditional Owner Corporations.
Shared benefits for the local community	<p>Mandatory: Community Engagement Plan outlining contractually binding commitments to share benefits with local communities.</p>	<p>Provide evidence of benefit sharing initiatives such as:</p> <ul style="list-style-type: none"> • co-ownership, co-investment. • other innovative models that dedicate funds for works on local Aboriginal lands. • establishing an independent and long-term income stream to fund. • capacity development like training, local services or community activities including for First Nations communities.

³² AP2 Spectrum of Public Participation was designed to assist with the selection of the level of participation that defines the public's role in any public participation process. It is used internationally, and found in public participation plans around the world. f

³³ Including Proponents for Projects that have reached Financial Close or COD.



MC8 – Regional economic development

Scope: Proponent's contribution towards regional economic development and the quality of the Proponent's Industry and Aboriginal Participation Plan (IAPP). The IAPP is a mandatory attachment and will become contractually binding on award.

Industry and Aboriginal Participation Plan (IAPP)

Collects information from Proponents to support the Project Assessment. The purpose of IAPP is more specifically to outline the returnable information required by Consumer Trustee to assess Merit Criteria 8.

It consists of two parts, Part A and Part B. Part A includes guidance notes, glossary of terms and Proponent and Project information.

Part B consists of:

1. Proponent contributions towards the specific recommendations from the [NSW Renewable Energy Sector Board Plan](#) and the expectations set out in [First Nations Guidelines](#) (including region-specific [First Nations Guidelines](#)).³⁴ This information will be requested under four sections that will be assessed separately as outlined below:
 - Section 1: Opportunities to supply goods and services, local content commitments, local supply chain investment and innovation commitments and supporting strategies and actions.
 - Section 2: Employment and workforce development commitments and supporting strategies and actions.
 - Section 3: First Nations participation.
 - Section 4: Commitments towards environmentally sustainable procurement throughout the supply chain.
2. NSW specific Proponent contributions that will only be assessed if the Project is the subject of [Value for Money Assessment](#).
3. Any relevant information requirements from the Proponents such as how the Bid will create employment and support industry in NSW if the person enters into an LTESA.

³⁴ This section is based on the considerations in the NSW Renewable Energy Sector Board Plan. The Consumer Trustee will take account of the NSW Renewable Energy Sector Board Plan.



MC8 – Regional economic development

What is assessed	What is required ³⁵	What we are looking for
<p>Local supply chain development and inputs</p>	<p>Mandatory:</p> <ul style="list-style-type: none"> • IAPP that development demonstrates and inputs commitments towards achieving baseline requirements and stretch goals. • Proponents' adherence to Australian Standards and specific activities to address barriers to entry for small and medium-sized enterprises (SME's). • Proponents' investment into new, local facilities and/ or innovation in the local supply chain. 	<p>Proponents are expected to meet baseline requirements based on the technology of the proposed Project (Table 9). The baseline requirements are based on goods and services procured from or value-added in Australia and New Zealand. These are measured as a percentage of Total Project Contract Value.</p> <p>If the proposed Project uses a combination of technologies, the Proponents are expected to use a 'weighted average' method to measure the contribution as a percentage of Total Project Contract Value.</p> <p>Proponents should note that baseline and stretch targets do not apply for Projects that use technologies that are not included in Table 9. However, Projects that demonstrate voluntary efforts to procure locally will be considered favourably under the relevant items. Any voluntary efforts are expected to contribute to build and improve the local supply chain for newer technologies.</p> <p>Bids that do not meet baseline requirements will not be removed from the Tender Round. Any non-compliance will require a detailed justification and the robustness of the evidence provided will form part of the assessment.</p> <p>Projects are expected to address:</p> <ul style="list-style-type: none"> • Contribution towards the stretch goals for the sub-criteria with numerical baseline requirements and stretch goals Table 9. • Genuine and effective contribution towards sub-criteria that do not apply numerical baseline requirements such as: <ul style="list-style-type: none"> – Environmentally sustainable procurement – consideration to environmentally sustainable procurement in its own operations (such as construction site waste, net zero plan, reducing water usage) and promoting sustainable practices throughout the supply chain, such as participating in or committing to solar panel or turbine blade recycling programs or research. – Local community development – Project has innovative training and employment initiatives or programs, which includes hard to reach underrepresented groups such as women, long-term unemployed and Aboriginal people from the local region, and includes appropriate strategies and actions such as pre-employment training, scholarships, cross-skilling to renewables and supporting apprentices.

Continued on next page

³⁵ Including Proponents for Projects that have reached Financial Close or COD.



MC8 – Regional economic development

What is assessed	What is required	What we are looking for
Local supply chain development and inputs (continued)		<ul style="list-style-type: none">– Local supply chain development – Investment and innovation in the local supply chain in the NSW renewable energy sector including; R&D related to challenges faced by the Project and its associated technology and start-ups and social enterprises related to renewable energy and First Nations communities.– Innovative products, processes, technologies, and services across the development, construction and operations phases of the project that have wider applicability in the sector.
Employment and workforce development	<p>Mandatory:</p> <ul style="list-style-type: none">• IAPP that development demonstrates commitments towards achieving baseline requirements and stretch goals.• Evidence of practices and policies to ensure fair and ethical practice in the workforce and supply chain will be considered under this criteria.	

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MC8 – Regional economic development

What is assessed	What is required	What we are looking for
First Nations participation	<ul style="list-style-type: none">• IAPP that demonstrates commitments towards achieving baseline requirements and stretch goals.• Evidence of meeting previous commitments to First Nations participation.• Evidence of Aboriginal employment and use of Aboriginal-owned suppliers.	Refer to MC8 pages above
Environmentally sustainable procurement	<ul style="list-style-type: none">• IAPP that demonstrates evidence of sustainable procurement.	

Table 9: Baseline requirements and stretch goals related to MC8³⁶

Supply chain inputs criteria <i>% for supply chain inputs refers to goods and services procured from, or value added in Australia & New Zealand as a percentage of total Project contract value</i>	Baseline requirements			
	Wind	Solar	Pumped hydro	Battery storage
Development phase (everything before COD)	40%	49%	66%	23%
Operation and maintenance phase	51%	71%	61%	35%
Steel product and components using locally milled steel <i>(excludes steel components integral to a component or products not available locally at the time of the Bid)</i>	10%	95%	30%	95%
Supply chain inputs criteria	Stretch goals			
	Wind	Solar	Pumped hydro	Battery storage
Development phase (everything before COD)	72%	81%	86%	78%
Operation and maintenance phase	76%	81%	82%	79%
Steel product and components using locally milled steel	95%			
Investment and innovation in the supply chain	Baseline requirement and stretch goal			
Commitment related to one or combination of: % of Project value in new/local facilities, % of Project value invested in innovation of supply chain, contributions to or participation in pooled investment.	For Tender Round 1, Proponents to make a voluntary but contractually binding commitment to investment and innovation. These commitments should form the basis for baseline requirement and stretch goals in future years.			
Employment, skills and knowledge transfer criteria	Baseline requirement		Stretch goal	
Learning workers ³⁷ (% of total Project workforce)	20%		40%	
Apprentices (% of all trades positions on a Project)	20%		30%	
First Nations participation criteria	Baseline requirement		Stretch goal	
First Nations participation	1.5%		10%, or the goal in the region-specific protocol under the First Nations Guidelines.	
Fair and ethical practice criteria	Baseline requirement		Stretch goal	
Employment of underrepresented groups ³⁸	15%		25%	
Environmentally sustainable procurement criteria	<p>Numerical minimum requirements do not apply. Proponents are required to respond to evidence requirements to demonstrate environmentally sustainable procurement. This includes:</p> <ul style="list-style-type: none"> • Alignment with NSW Net Zero Plan. • Alignment with NSW Circular Economy Policy Statement. • Sourcing materials according to EN15804, Green Building Council's or other appropriate sustainability framework. 			

³⁶ This section is based on the considerations in the NSW Renewable Energy Sector Board Plan.

³⁷ Note: as defined in the NSW Renewable Energy Sector Board Plan, a 'learning worker' is a worker without qualifications or who needs to update their qualifications or skills to meet the needs of the infrastructure project. This includes trainees and apprentices. Once defined as a learning worker, the worker maintains this status for the duration of the project. All workers on a project who undertake accredited training count towards the learning worker requirement, not just construction workers. The project workforce includes all people who contribute to the project. This includes people such as managers, engineers, finance team, environmental team, safety team, construction employees consisting of supervisors, those in leadership roles, tradespeople and operators. People who undertake training organised by the contractor prior to employment are counted as learning workers only if they are employed on the project. Training must be accredited vocational education and training (VET) or nationally recognised professional qualifications that meet the needs of the project and can be full or part qualifications (such as one or more units of competency). It may be subsidised by government funding or through a fee-for-service arrangement. Participants in the NSW Government Trade Pathways Program are to be included as learning workers and count towards achievement of this outcome.

³⁸ Underrepresented groups include people with characteristics defined in the *Anti-discrimination Act 1977* (NSW) and people who are long-term unemployed in addition to young people and women.

4.2.2 Financial Value Merit Criteria

This section outlines the information required to assess the Merit Criteria for the Financial Value Assessment for shortlisted Proponents and applies to all combinations of Products being tendered as part of the Bid.



MC1 – Financial value

Scope: the financial value of the Project. The Merit Criteria 1 Returnable Schedule requests the following information:

- Project Characteristics.³⁹
- Generation shape.
- Dispatchable shape (as required).
- Degradation.

Merit Criteria 1 also requests the Bid Variables for both the [Default and Alternative Financial Value Bids](#). This information, and some Project information submitted in the Project Bid, will be used to assess financial value (see [Table 11](#)).

³⁹ The key technical characteristics of the Project, as defined in Glossary.



MC1 – Financial value

Table 10: Aspects considered under Merit Criteria 1

What effect of the Project is being assessed	How we will assess it	What we are looking for
<p>Wholesale electricity costs and market benefits⁴⁰</p>	<p>Generation LTESAs/Access Right: A Project bidding for a Generation LTESA and/or an Access Right is expected to be additional to the system and therefore provide wholesale market price suppression. This has a net positive impact on wholesale electricity costs from the perspective of NSW electricity customers.</p> <p>For each Project, forecast reductions in wholesale spot prices will be assessed under a range of future scenarios, by evaluating the relationship between forecast prices, electricity demand and expected generation.</p> <p>LDS LTESAs: A Project is expected to result in NSW wholesale price suppression. This is expected to be driven by additional generation in times of high price. Projects that have a load capability (e.g. batteries or pumped hydro) will also be assessed in terms of their ability to reduce economic curtailment of variable renewables. LDS Projects' duration and load capability will be considered in their expected impact to wholesale prices as well as their capability to reduce unserved energy under a range of future scenarios.</p>	<p>Projects that are expected to consistently and significantly reduce NSW wholesale market prices, across a range of scenarios.</p> <p>Projects that are expected to lower wholesale cost to NSW customers by suppressing prices at times of tight supply demand balance.</p> <p>Projects that are expected to reduce economic curtailment of variable renewables, in addition to above.</p>
<p>Net LTESA cost⁴¹</p>	<p>Generation LTESAs: Cashflow analysis of the LTESA's impact on the SFV, based on the structure of the LTESA. This will be assessed against a range of scenarios encompassing different market price outcomes and LTESA operators' exercise behaviours.</p> <p>LDS LTESAs: Projects' Annuity Cap and Net Revenue Threshold are assessed alongside a duration and load-capability benchmark to estimate expected costs incurred by the SFV across multiple future scenarios.</p>	<p>Projects that exhibit a low likelihood of exercising the LTESA options – and only using the product as price guarantee or 'insurance' when wholesale prices are low.</p> <p>A low-cost impact to the SFV as a result of the options under the LTESA being exercised.</p> <p>A low Annuity Cap Bid.</p> <p>A low Net Revenue Threshold Bid.</p> <p>A high potential for market revenues which decrease expected annuity payments.</p>

⁴⁰ EII Regulation, reg 26(4)(a),(e).

⁴¹ EII Regulation, reg 26(4)(b),(c) and (d).

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MC1 – Financial value

Table 10: Aspects considered under Merit Criteria 1

What effect of the Project is being assessed	How we will assess it	What we are looking for
Access Fees paid for Projects seeking an Access Right⁴²	Access Fees are an income for the SFV, reducing the amount the SFV recovers from consumers. Access Fees are paid by Projects that connect to a REZ where a declared Access Scheme applies.	This part of the assessment recognises the financial value gained by the SFV as a result of Access Fees.
Uncertainty of the value of generation⁴³	Generation LTESAs: Some Projects' generation output is highly variable reducing the certainty of wholesale market benefits and net LTESA cost estimates. A Project that has expected output at times of high variability of price may lead to a wider range of expected costs and benefits. The relationship between expected output and uncertainty of price will be estimated and included in the overall assessment of financial value.	High certainty of output at times of high prices, via a comparison of generation profile distribution with price distribution at different times of day.
Impact on unserved energy⁴⁴	<p>This benefit will be estimated by determining the financial value of avoided unserved energy, using data from the latest AEMO Electricity Statement of Opportunities (ESOO) and Value of Lost Load (VOLL).</p> <p>LDS projects are expected to have a positive impact on system reliability, with the potential to reduce the likelihood of unserved energy events and thereby the potential to reduce any reliability-associated costs to consumers.</p>	Ability to reduce the magnitude and number of occurrences of avoided unserved energy.

⁴² EII Regulation, reg 26(4)(b), (d) and (e).

⁴³ EII Regulation, reg 26(4)(a), (d) and (e).

⁴⁴ EII Regulation, reg 26(4)(e)



MC1 – Financial value

Table 11: Mandatory Project information sought for Merit Criteria 1 assessment

Information source	Description	When it will be requested	Where it will be assessed
Generation data			
Generation shape (as required)	<p>Where required for generation LTESAs and Access Rights, Proponents are asked to provide their generation traces for the Project in MWh per interval specified. This should represent the AC output measured at the connection point after accounting for auxiliary losses and inverter ratings. Proponents should provide the most accurate generation traces they have available through either measured or modelled data.</p> <p>This is to be provided for three specified historical weather years (dates aligned with financial years). For Tender Round 1, the specified reference years are 2016-17, 2017-18 and 2018-19.</p> <p>This information is mandatory and is required to assess a Financial Value Bid.</p>	Financial Value Bid	<ul style="list-style-type: none"> Wholesale market benefits Net LTESA cost Uncertainty of the value of generation
Dispatchable shape (as required)	<p>If a Project involves generation technologies that are not weather- dependent, they will be asked to provide a separate generation trace indicating the output trace of the dispatchable technology component and text description of how this component is expected to operate.</p> <p>This information is mandatory and is required to assess a Financial Value Bid.</p>	Financial Value Bid	<ul style="list-style-type: none"> Wholesale market benefits Net LTESA cost Uncertainty of the value of generation
Degradation	<p>Proponents are asked to provide a degradation profile for the Project indicating annual degradation in aggregate for all Project components.</p>	Financial Value Bid	<ul style="list-style-type: none"> Wholesale market benefits Net LTESA cost

The Product and Project details listed will also be requested through the online application form and/or Returnable Schedules to support Merit Criteria 1 assessment:

- Fuel source, Maximum Capacity and storage capacity (if applicable), operational life and the target COD.
- Locations of the Project and network connection point.
- Anticipated first year of exercise (if LTESA is sought).
- A schedule of years that the right to exercise the LTESA is forfeited. For example, this could be years that a Project will have a separate offtake agreement active.



MC2 – Commercial departures

Scope: the nature and extent of commercial departures and the resulting risk-transfer from the Project Documents.

The Returnable Schedule for this Merit Criteria requests the following information:

- Departure table, including the reason for each departure requested.
- Marked-up version of all proposed departures in the relevant Project Documents in a form that is ready for acceptance.

Departures should be limited to those that are essential to the Proponent's commercial or technical requirements and in all cases should consider the impacts of changing the proposed risk position in the proforma Project Documents.

Bids will be scored against the following principles:

- Lowest scores where a departure changes a term that is necessary for the LTESA to qualify under the EII Act or is required for the SFV to administer the LTESA as contemplated by the EII Act and supporting regulations.
- Lower scores where the departure alters consistency with other LTESAs or would bring additional administrative burden and cost to the SFV.

Bids with no proposed departures will score the highest in Merit Criteria 2.



Tender Conditions

5.1 Application and agreement to comply with these Tender Conditions

Participation in the Tender Round is subject to compliance with the Tender Conditions.

All persons (whether or not they submit a Bid) who obtain these Guidelines may only use this document and the information contained in it, in compliance with the Tender Conditions.

By participating in the Tender Round, each Proponent (including all Consortium Members):

- a. is deemed to accept, acknowledge and agree:
 - i. to comply with the Tender Conditions and all applicable Laws, and
 - ii. that information provided to the Consumer Trustee during the Tender Round is for the benefit of the Consumer Trustee, the Infrastructure Planner and the SFV, and
- b. must ensure compliance by its Associates with the Tender Conditions.

The Tender Conditions apply to:

- a. these Guidelines and any other information given, received, or made available in connection with these Guidelines, including any revisions or Addenda;
- b. the Tender Round and each Proponent's participation in the Tender Round; and
- c. any communications, including any presentations, meetings or negotiations (whether before or after the release of these Guidelines), relating to these Guidelines or the Tender Round.

The Tender Conditions apply for the benefit of the Consumer Trustee and each Associate of the Consumer Trustee.

In addition to any other remedies available to the Consumer Trustee under Law or contract (including under the Tender Process Deed), any failure to comply with the Tender Conditions will, in the absolute discretion of the Consumer Trustee, entitle it to terminate a Proponent's or a Consortium Member's participation (or further participation) in the Tender Round.

5.2 Interpretation

Except to the extent the context requires otherwise, in these Guidelines:

- a. 'includes' in any form is not a word of limitation.
- b. the meaning of 'or' will be that of the inclusive 'or', meaning one, some or all of a number of possibilities.
- c. headings are for convenience only and do not affect interpretation.
- d. the singular includes the plural, and the plural includes the singular.
- e. if a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- f. a reference to a person includes a natural person, a firm, a company, a corporation, a body corporate, a trust, a partnership, an unincorporated association or a government agency and any successor entity to those persons.
- g. a reference to a time is to Australian Eastern Standard (AEST) time.
- h. a reference to a party in the Tender Conditions or another agreement or document includes that party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal or personal representatives).
- i. a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and all legislation, regulations, rules or statutory instruments under it.

5.3 Not an offer

These Guidelines are not an offer. It is an invitation for persons to submit a Bid only. These Guidelines must not be construed, interpreted or relied upon, whether expressly or impliedly, as an offer capable of acceptance by any person.

Neither these Guidelines, nor a Bid submitted by a Proponent, has any contractual effect in relation to proceeding with the Project and does not create any contractual, promissory, restitutionary or other rights in that respect.

The Consumer Trustee is under no obligation to complete the process outlined in these Guidelines or to recommend a Bid or a Project. The Consumer Trustee may change the process, or the description of the requirements outlined in these Guidelines by issuing an Addendum.

The Consumer Trustee's statutory functions do not include entering into or signing the Project Documents.

The Consumer Trustee and its Associates will not be liable for any costs incurred by any person (including Proponents, Consortium Members or their respective Associates) in connection with or relating to considering this opportunity, submitting a Bid or otherwise participating in the Tender Round.

5.4 Liability

Except as otherwise expressly provided in the Tender Conditions or Tender Process Deed, the Proponent (including Consortium Members) and their respective Associates are not entitled to make any Claim against the Consumer Trustee or its Associates for any Liability incurred by them arising out of, or in connection with, the Tender Conditions or Tender Process Deed (including, without limitation, the exercise or non-exercise of the Consumer Trustee's discretion), the Tender Round, the submission of (or failure to submit or decision not to submit) a Bid, the Disclosed Information, a failure to disclose information, or (where applicable) any inspections of any site related to the Project or the granting (or not granting) of any Approvals required or desired in relation to the Project (including in connection with any delay in progressing or securing any such Approval) or the making (or not making) of any recommendation in respect of any Proponent, its Consortium Members or their respective Associates.

The Proponent (including each Consortium Member) must indemnify, and must keep indemnified on demand, the Consumer Trustee and each of its Associates from and against any Claim or Liability (including any Claim made by, or Liability to, a third party) suffered or incurred by the Consumer Trustee or any of its Associates (as the case may be) arising out of, or in connection with:

- a. any breach by the Proponent or a Consortium Member of the Tender Conditions or Tender Process Deed, including a failure to comply with the Tender Conditions or Tender Process Deed;
- b. any action or Claim brought by the Proponent, a Consortium Member or any of their respective Associates against the Consumer Trustee or any of its Associates with respect to any of the matters or events identified in this Section 5.4;
- c. (where applicable) any site inspection to the extent caused by the act or omission, including any negligence of, the Proponent, a Consortium Member or any of their respective Associates; or
- d. the Consumer Trustee exercising or failing to exercise, in whole or in part, its rights under Tender Process Deed.

Without limiting the foregoing, Proponents, Consortium Members and their respective Associates represent and warrant that they will have no Claim, and will not bring any Claim, against the Consumer Trustee or any of its Associates arising from or in connection with the exercise or the failure to exercise the rights or discretions of the Consumer Trustee in accordance with the rights and discretions set out in the Tender Documentation.

The Proponent, Consortium Members and their respective Associates each acknowledge and agree that the Consumer Trustee has relied on the representation and warranty set out above in deciding to consider a Bid.

Except to the extent the context requires otherwise:

- a. where the Proponent comprises more than one person or is a consortium, the obligations and liabilities of the Proponent, under the Tender Conditions or Tender Process Deed apply to the Proponent, and each Consortium Member jointly and severally;
- b. no rule of interpretation applies to the disadvantage of the Consumer Trustee on the basis that the Consumer Trustee put forward the Tender Conditions or Tender Process Deed; and
- c. if any of the Tender Conditions or Tender Process Deed purport to exclude Liability for a particular matter, such exclusion only operates to the extent permitted by Law.

5.5 No warranty

Except to the extent otherwise required by Law, neither the Consumer Trustee nor its Associates:

- a. make any warranties or representations (express or implied), or assume any duty of care, or accept any Liability with respect to the completeness, accuracy, adequacy or correctness of the Tender Documentation, the Disclosed Information, or the EII Act;
- b. make any warranty about whether (or in what form) any Ministerial directions, order(s) or regulatory or similar instruments will be made under the EII Act; and
- c. accepts responsibility or is liable in any way for any loss or damage of whatever kind (whether foreseeable or not) however arising (including, without limitation, by reason of negligence or default), incurred by any person in connection with the Tender Documentation or any Disclosed Information, the Project, in preparing any Bid, or in the outcome of the Tender Round.

5.6 No representations

No representation made by or on behalf of the Consumer Trustee or any of its Associates in relation to the Tender Round or its subject matter will be binding on the Consumer Trustee or any of its Associates unless that representation is expressly incorporated into any Final Project Documents entered into in respect of the Project.

5.7 Compliance with protocols

Each Proponent must, and agrees to procure that each of its Associates will, comply with any and all protocols and procedures in relation to any data room, meetings, presentations, workshops, question and answer processes, or any other aspect of the Tender Round as set out in these Guidelines or otherwise provided for by the Consumer Trustee in accordance with these Guidelines.

5.8 Bonding requirements

To ensure the integrity of the tender process, Proponents are required to make contractual commitments to participate in the Tender Round. These commitments will be collateralised by financial bonding in the form of a letter of credit or guarantee. Security for Process Bond (during Tender Round) and construction bond (Initial Security) details are provided in the Tender Process Deed and PDA, respectively.

5.9 Confidentiality

Unless publicly disclosed on the Consumer Trustee's website dedicated to the Tender Round, all Disclosed Information is confidential information about the Consumer Trustee and its activities. This Disclosed Information is provided solely to enable Proponents, Consortium Members and their respective Associates to consider the opportunity and to prepare and submit Bids.

The Proponent must:

- a. ensure, at all times, that it and its Associates to whom the Proponent has disclosed Disclosed Information in accordance with (a)(ii) below:

- i. not use Disclosed Information except to consider the opportunity in the Tender Round and to prepare and submit Bids;
 - ii. only disclose Disclosed Information to any Associate who has a need to know (and only to the extent that each has a need to know) Disclosed Information to consider the opportunity in the Tender Round and to prepare and submit Bids; and
 - iii. keep strictly confidential all Disclosed Information;
- b. notify the Consumer Trustee immediately if it becomes aware of any unauthorised disclosure or use of the Disclosed Information; and
 - c. immediately take all reasonable steps to prevent or stop any such unauthorised disclosure or use.

A Proponent and each of its Associates must not disclose Disclosed Information to any person who is involved with a Competing Proponent.

Proponents will be responsible for their own compliance with this section 5.9 and any obligations of confidentiality contained in the Tender Process Deed, as well as the compliance of their Associates, Consortium Members and the Consortium Members' Associates.

At any time, the Consumer Trustee may request from the Proponent, the Consortium Members or any of their respective Associates a confidentiality acknowledgement in respect of any specific Disclosed Information, including in accordance with the Tender Process Deed.

All persons are also bound by the non-disclosure obligations imposed by Section 75 of the EII Act. Under that provision a person must not disclose information obtained in connection with the administration or execution of the EII Act, subject to certain specified exemptions. That section also sets out the consequences of non-compliance, which include penalties applicable to individuals and corporations.

5.10 Consumer Trustee intellectual property

Unless otherwise indicated in these Guidelines, the Consumer Trustee or its Associates (as applicable) own such Intellectual Property Rights as may exist in the Tender Documentation and the Disclosed Information.

Proponents, Consortium Members and their respective Associates are permitted to use and copy these Guidelines and the Disclosed Information for the sole purpose of considering the opportunity set out in this Tender Round and preparing and submitting a Bid.

5.11 Others to be bound

A Proponent and each Consortium Member must ensure that each respective Associate to whom they supply these Guidelines and any Disclosed Information agrees to be bound by the Tender Conditions and complies with the Tender Conditions and any requirements under the Tender Process Deed (as applicable).

5.12 Continuing obligations

The obligations of a Proponent (including each Consortium Member) under these Tender Conditions survive the termination or expiration of the Tender Round and the Project.

5.13 Requirements of the Tender Round

Without limitation, each Proponent (including each Consortium Member) agrees to be bound by the requirements set out in the Tender Documentation in respect of participating in the Tender Round.

5.14 Requests for clarification and further information

If a person finds any discrepancy, error, or has any doubt as to the meaning or completeness of these Guidelines or the Tender Round, or requires clarification on any aspect of these Guidelines or the Tender Round, they may notify the Consumer Trustee in writing, not less than 14 days prior to the Project Bid Closing Date and Time (during the Project Bid preparation stage) or Financial Value Bid Closing Date and Time (during the Financial Value Bid preparation stage). The Consumer Trustee will operate a Q&A Process in accordance with [Section 3.1.1](#) of these Guidelines, and the Consumer Trustee may at its discretion make deidentified questions and clarifications available to all Proponents. The Consumer Trustee may also publish an Addendum to all Proponents clarifying the discrepancy, error, doubt, or query (as the case may be) and may extend the relevant Closing Date and Time if the Consumer Trustee considers it appropriate in all the circumstances.

The Consumer Trustee reserves the right not to respond to any question or request, irrespective of when it is received.

No representation or explanation to Proponents as to the meaning by the Consumer Trustee or its Associates of these Guidelines, or as to anything to be done or not to be done by the Proponent, will be taken to be included in these Guidelines, unless it is contained in an Addendum.

Meetings with the Consumer Trustee

Notwithstanding the above, the Consumer Trustee may invite a Proponent or any of its Associates to attend meetings with the Consumer Trustee, its Associates or a Government Authority during the Tender Round to discuss issues arising in relation to the preparation of a Bid, the Project or the Tender Round.

If the Consumer Trustee requests a meeting (whether the meeting is with the Consumer Trustee, its Associates or a Government Authority):

- a. the Consumer Trustee may prepare an agenda of items to be discussed;
- b. the meetings will be conducted in accordance with all probity and other procedures and protocols advised by the Consumer Trustee from time to time;
- c. the Consumer Trustee may decline to discuss any or all issues raised by the Proponent or any of its Associates; and
- d. questions and responses at any meeting may be recorded in writing or by any other means on behalf of the Consumer Trustee, copies of which may only be provided to the Proponent at the Consumer Trustee's discretion.

Except to the extent that these Guidelines specify to the contrary, information provided at any time by the Consumer Trustee to the Proponent or any of its Associates may also be provided by or on behalf of the Consumer Trustee to a Competing Proponent.

Nothing which occurs at a meeting may be relied on by the Proponent and its Associates unless subsequently confirmed in writing by the Consumer Trustee.

5.15 Improper assistance

Proponents, Consortium Members and each of their respective Associates must not:

- a. seek or obtain the assistance of the Consumer Trustee or its Associates in the preparation of a Bid;
- b. lobby or otherwise take actions to influence the outcome of this Tender Round other than as permitted by these Guidelines.

In addition to any other remedies available to it under Law or contract (including under the Tender Process Deed), the Consumer Trustee may, in its absolute discretion, immediately disqualify a Proponent, Consortium Member or an Associate of either of them, that it believes has sought or obtained such assistance.

5.16 Conflict of interest

A Proponent and each Consortium Member must not, and must ensure that their respective Associates do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interest between the Consumer Trustee and the Proponent's or Consortium Member's interests during the Tender Round.

If any:

- a. actual, potential or perceived conflict of interest; or
- b. fact, matter or thing which may have an adverse effect on the Tender Round, probity or perception of probity,

arises in respect of the Tender Round or in respect of the Project, then the Proponent or Consortium Member, as relevant, must:

- c. promptly notify the Consumer Trustee of the actual, potential or perceived conflict of interest or adverse effect;
- d. provide sufficient detail to the Consumer Trustee as to the nature and extent of the conflict of interest or adverse effect, including any information reasonably requested by the Consumer Trustee in relation to the conflict of interest;
- e. take any steps that the Consumer Trustee reasonably requires to address the conflict of interest or adverse effect.

Conflicts of interest between Competing Proponents

Each Proponent (including each Consortium Member) acknowledges and agrees:

- a. that except as may be consented to by the Consumer Trustee in writing, (in its absolute discretion), the Proponent or Consortium Member (as applicable) is not and must not become a member of, or otherwise be involved with, a Competing Proponent; and
- b. to immediately notify the Consumer Trustee if it receives confidential information of a Competing Proponent, (such notice to include the nature and extent of the confidential information); and
- c. that the Consumer Trustee has the right to exclude the Proponent and/or individual Consortium Members from the Tender Round for breach of this Section 5.16.

Conflicts of interest regarding Associates

The Consumer Trustee may at any time during a Proponent's participation in the Tender Round request a list of any or all of a Proponent's current:

- a. Debt or Equity Providers;
- b. suppliers;
- c. subcontractors; and/or
- d. Associates,

and the Proponent must provide the list or lists requested within 2 Business Days of any such request by the Consumer Trustee.

Each Proponent (including each Consortium Member) acknowledges and agrees no Associate may be an Associate in respect of both the Proponent and any Competing Proponent, or both the Proponent and any of the Consumer Trustee or its Associates unless:

- a. the Proponent has first notified the Consumer Trustee of that fact;
- b. the Proponent has received written consent from the Consumer Trustee to the relevant person being an Associate for both the Proponent and the Competing Proponent or Consumer Trustee;
- c. the Proponent has provided written confirmation to the Consumer Trustee that all necessary protocols are in place in relation to information and personnel separation and ringfencing (for example, information barriers) that would reasonably be expected for persons participating in a competitive tender process of this nature (**Conflict Protocols**); and
- d. the Consumer Trustee has confirmed that such Conflict Protocols have been implemented to its satisfaction.

If at any time the Consumer Trustee rejects the Conflict Protocols, or the affected Proponent and/or Associate fails to observe such agreed arrangements, then the Consumer Trustee reserves the right (without limitation to any other discretion or action, including pursuant to the Tender Process Deed) to terminate the Proponent's or any Consortium Member's further participation in the Tender Round.

Conflict of interest between the Consumer Trustee and a Proponent

A Proponent must promptly notify the Consumer Trustee of any relationship it or its Associate may have with any entity involved or connected with the Project or the administration of the Tender Round, any experts, consultants or advisers appointed by the Consumer Trustee for the purposes of evaluation during the Tender Round, and any entity involved in the NSW Electricity Infrastructure Roadmap.

The Consumer Trustee may, in its absolute discretion, decide not to evaluate (or not continue to evaluate) a Bid if the Consumer Trustee believes that the Bid was prepared (in whole or in part) by an Associate of a Proponent where that Associate:

- a. is or was an Associate of, or otherwise engaged by, the Consumer Trustee at any time during the 12 months immediately preceding the Tender Commencement Date; or
- b. involved in the management of the Tender Round, or the preparation of any of the Tender Documentation or Project Documents, at any time.

Before the Project Bid Closing Date and Time, a Proponent may request permission from the Consumer Trustee to have an Associate described above contribute to or participate in the Tender Round and/or preparation of a Bid. Where a Proponent makes such a request, the Consumer Trustee may, in its absolute discretion, at any time:

- a. grant permission, whether with or without such conditions as the Consumer Trustee thinks fit; or
- b. refuse permission.

5.17 No anti-competitive conduct

Proponents, Consortium Members and their respective Associates must not engage in any collusion, anti-competitive conduct or any other similar conduct with any other person in relation to:

- a. any aspect of the Project;
- b. the preparation or submission of a Bid or the bid of a Competing Proponent;
- c. the evaluation and clarification of a Bid or the bid of a Competing Proponent; and
- d. the conduct of negotiations between the Consumer Trustee and the Proponent or a Competing Proponent, in respect of the Tender Round.

For the purposes of this Section 5.17 collusion, anti-competitive conduct or any other similar conduct may include access (or seeking access) to, disclosure, exchange and clarification of information whether or not such information is confidential to the Consumer Trustee, any Competing Proponent or any person or organisation.

Without limiting the foregoing, each Proponent and its Consortium Members each acknowledge and agree it must not attempt to obtain any advantage for itself by seeking information other than through the means set out in the Tender Documentation, or by attempting to influence any Associate of the Consumer Trustee in relation to the Project through any means apart from communications in accordance with the Tender Documentation.

In addition to any other remedies available to it under Law or contract (including under the Tender Process Deed), the Consumer Trustee may, in its absolute discretion, immediately disqualify a Proponent, a Consortium Member or any of their respective Associates if that Proponent, Consortium Member or Associate (as applicable) has engaged in any collusion, anti-competitive conduct or any other similar conduct in respect of the Tender Round.

5.18 Submitting a Bid

A Bid must meet the requirements for submission set out in these Guidelines.

5.19 Proponent structure, Consortium Members and Associates

Persons are permitted to form a consortium to participate as a Proponent and deliver the Project to the Consumer Trustee.

The Proponent warrants that its Bid accurately identifies the Proponent (including its corporate structure and structure and membership of the Proponent), any Consortium Members, and their respective Associates.

5.20 Change to Proponent structure, Consortium Members and Associates

The Proponent must notify the Consumer Trustee promptly in writing of any change in:

- a. the structure of a Proponent including any Consortium Member;
- b. the appointment, termination or replacement of an Associate of the Proponent (and the notice must include details of the nature of the appointment); or
- c. any material changes to the scope or terms of the appointment of an Associate of the Proponent.

Upon receipt of any notice pursuant to this Section 5.20, the Consumer Trustee reserves the right (without limitation to any other discretion or action, including pursuant to the Tender Process Deed) to:

- a. assess the change and terminate the Proponent's or any Consortium Member's further participation in the Tender Round; or
- b. invite the Proponent to amend its Bid accordingly.

Without limiting the above, following entry into the Tender Process Deed, changes to the Proponent's structure and/or to 'Proponent Consortium Member' (as that term is defined in the Tender Process Deed) must not be made without the Consumer Trustee's consent, and compliance (if applicable) with any requirement to enter into an accession deed or Consortium Deed Poll (as applicable).

5.21 Material disclosures

The Consumer Trustee has received (and will continue to receive) advice and / or assistance in relation to these Guidelines, the Tender Round and the Project from:

- a. AEMO;
- b. EnergyCo; and
- c. the Consumer Trustee's consultants, including King & Wood Mallesons. Other consultants will be advised at a later date.

Those parties are likely to be involved in assisting the Consumer Trustee to assess Bids. The Consumer Trustee may also seek support from legal, technical or commercial advisers in relation to a Tender Round.

Each Proponent (and each Consortium Member) acknowledges and agrees that it has been made aware of the matters outlined in this Section 5.21.

5.22 Proponents to perform own due diligence

The Proponent, Consortium Members and their respective Associates must carry out all relevant investigations, make their own review and evaluation, and examine and acquaint themselves in respect of:

- a. all aspects of the Project and the requirements of the Tender Round;
- b. the contents, completeness, accuracy, adequacy and correctness of the Disclosed Information; and
- c. all information which is relevant to the risks, contingencies, costs, procedures and other circumstances related to the Project which could affect their decision to submit a Bid or the nature or terms of a Bid,

without reliance on the Consumer Trustee or any of its Associates.

Each Proponent (including each Consortium Member) acknowledges and agrees that, except where expressly stated otherwise, the Consumer Trustee and its Associates have not verified the information contained in these Guidelines and the Disclosed Information, and such information should not be regarded as a substitute for the exercise of their own judgement by each Proponent, Consortium Member and their respective Associates.

The Proponent, Consortium Members and their respective Associates may not in any way rely upon a failure by the Consumer Trustee or any of its Associates to provide any information. By participating in the Tender Round, including by submitting any Bid, the Proponent, Consortium Members and their respective Associates acknowledge and agree that they have not in any way relied upon information provided by the Consumer Trustee or by the Consumer Trustee's Associates or upon a failure by the Consumer Trustee or any of its Associates to provide information.

By submitting a Bid, a Proponent (including each Consortium Member) is taken to have:

- a. read and understood the requirements of the Tender Documentation;
- b. made all reasonable enquiries, investigations and assessment of available information relevant to the risks, contingencies, costs, procedures and other circumstances relating to the Tender Round and Project; and
- c. satisfied itself as to the correctness and sufficiency of its Bid.

These Guidelines do not constitute legal or business advice and should not be relied on as a substitute for obtaining detailed advice about the opportunity, the Tender Round, the NEM, the NER, the EII Act or any other applicable Laws, procedures or policies.

5.23 Bids commercial-in-confidence

The Consumer Trustee will retain all Bids and may copy and distribute at any time Bids for the purposes of conducting the Tender Round, including negotiation and evaluation of Bids, and to support its due diligence and strategic risk-assessment. Bids will be treated as confidential and will not be disclosed outside the Consumer Trustee unless it is:

- a. required or permitted by Law, or in the course of legal proceedings;
- b. requested by any Authority having jurisdiction over the Consumer Trustee or its activities; or
- c. to the Consumer Trustee's Associates, insurers or subject matter experts, for any purpose described in Sections 5.23 and 5.24.

5.24 Use of Bids

The Proponent (including each Consortium Member) grants the Consumer Trustee and its Associates an irrevocable, perpetual, non-exclusive, transferable, free-of-charge licence to use, reproduce, develop, communicate, modify or sub-license the whole or any part of any Bid for the purposes of:

- a. assessing and negotiating Bids, supporting the Consumer Trustee's due diligence and strategic risk-assessment for the Tender Round, and otherwise facilitating the competitive tender pursuant to the Tender Round or the Consumer Trustee's rights and obligations under the EII Act and Tender Rules; and
- b. providing generalised learnings and improvements to any future Tender Rounds, including any Guidelines and other tender documentation, on a de-identified basis.

The Proponent (including each Consortium Member) warrants that it has the authority to grant the licence contemplated in this Section 5.24 and the exercise by the Consumer Trustee or any person authorised by it in accordance with, or as contemplated by, the Tender Conditions will not infringe the Intellectual Property Rights or rights of any person. The Proponent (including each Consortium Member) must indemnify the Consumer Trustee against any Liability or Claim arising from any breach of the warranty in this Section 5.24.

5.25 No amendment

A Proponent may not amend its Bid after it has been submitted, unless invited or requested to do so by the Consumer Trustee and subject to the Tender Process Deed in respect of a Financial Value Bid.

5.26 Withdrawal of Bid

A Proponent who wishes to withdraw or revoke a Bid must immediately notify the Consumer Trustee of that fact. Upon receipt of such notification, the Consumer Trustee will cease to consider that Bid. In the case of a Financial Value Bid, see also Section 3.1.1 of these Guidelines and the Tender Process Deed.

5.27 No requirement to return

Each Proponent (including each Consortium Member) agrees that the Consumer Trustee will not be required to return the Bid, or any documents, materials, articles and information submitted by the Proponent as part of, or in support of, its Bid.

5.28 No reimbursement of costs

Neither the Consumer Trustee nor any of its Associates will be responsible for, and no Proponent or a Consortium Member (including their respective Associates) is entitled to be reimbursed for, any expense, liability, cost or loss incurred in connection with or related to considering the opportunity, the preparation and submission of a Bid, or participation in the final contract award stage, including (without limitation) any costs incurred in attending meetings with the Consumer Trustee or providing any further clarification requested by the Consumer Trustee.

5.29 No publicity

Except to the extent required by Law, or the binding requirement of a recognised stock exchange, a Proponent and its Consortium Members must not, and must procure that their Associates do not, make any public or media announcement or participate in or be party to any media reports in respect of these Guidelines, the Tender Round, the Project or a Bid, including their involvement in the Tender Round, or the outcome of this Tender Round, without the Consumer Trustee's prior written consent in its absolute discretion.

5.30 Discretion of the Consumer Trustee

Unless expressly provided to the contrary in the Tender Conditions, the Consumer Trustee may give, modify, withhold, withdraw, make or exercise any action, approval, consent, decision or discretion or other function under the Tender Conditions at the Consumer Trustee's absolute discretion, whether subject to conditions and at any time.

Each Proponent, Consortium Member and their respective Associates acknowledges and agrees to the Consumer Trustee's right, at the Consumer Trustee's absolute discretion, to:

- a. reject, refuse or cease to consider, or accept, any Bid that does not comply with the requirements of these Guidelines or the Tender Conditions or which is otherwise incomplete;
- b. suspend or terminate the Tender Round;
- c. elect not to further evaluate any Bid that fails to satisfy the Eligibility Criteria or the Merit Criteria;
- d. reject or accept any Bid notwithstanding whether such Bid is the lower priced, higher-ranked, or otherwise;
- e. make a recommendation (or not make a recommendation) in respect of any Bid at any stage of the Tender Round, including making a recommendation including making a recommendation (or not making a recommendation) to award an LTESA or Access Right (as applicable) to a Proponent which had (or did not have) the highest ranked Bid as against the Eligibility Criteria or the Merit Criteria;
- f. accept or reject the whole or part of any Bid to the extent, in the case of part-acceptance, that part of the Bid is capable of such partial acceptance;
- g. suspend or terminate a person's participation in the Tender Round if the Consumer Trustee forms the view that the person (or their Associate) has breached or not complied with the Tender Documentation. For the avoidance of doubt, the Consumer Trustee is not obliged to exclude a Competing Proponent or any other person from continued participation in the Tender Round in the event that a Competing Proponent or any other person fails in whole or part to comply with the Tender Documentation;
- h. require, request, receive or accept (whether requested or not) additional information, material, clarification or explanation from any Proponent or Consortium Member at any time and the Consumer Trustee may, at its sole discretion, take such information, material, clarification or explanation into consideration in its evaluation of a Bid;
- i. if additional information is required by the Consumer Trustee pursuant to sub-paragraph (h) and not provided within the timeframe nominated by the Consumer Trustee (if any), continue to evaluate the Bid on the basis of the information available;
- j. waive any or all (in whole or in part) of the obligations of a Proponent or its Associates (or a Competing Proponent or its Associates) under the relevant Tender Process Deed or the requirements under these Guidelines;
- k. consider and accept a Bid regardless of whether any Proponent, Consortium Member or any of their respective Associates has breached or not complied with any Tender Conditions and despite the existence of departures from the Guidelines or technical specifications for the Project or Tender Conditions;
- l. vary or supplement any of the Tender Conditions or other aspects of these Guidelines;
- m. without limiting sub-paragraph (l), cancel, supplement, vary or amend the terms of any information, requirements, procedures, selection criteria and protocols relevant to the Tender Round having regard to probity requirements and advice;
- n. change the timing, order or application of any phase or process in the Tender Round; or
- o. supplement, remove, add to or vary any part of the Tender Round;
- p. accept or reject a Bid which is submitted at any time after the relevant Closing Date and Time or which is submitted otherwise than in accordance with these Guidelines;
- q. accept or reject any clarification question which is lodged by a person in respect of the Tender Round after the time and date specified, or otherwise in the manner specified, in these Guidelines as the Closing Date and Time for such questions or requests;
- r. extend any time or date specified in these Guidelines;
- s. call for new Bids;
- t. negotiate with any Proponent on any matter the Consumer Trustee may determine, including allowing some Proponents to clarify, alter, amend, add to or change its Bid after the relevant Closing Date and Time without offering the same opportunity to all Proponents;

- u. in evaluating any Bid or selecting a Selected Proponent, have regard to:
 - i. past performance and corporate history of any Proponent, Consortium Member or any of their respective Associates;
 - ii. information concerning a Proponent, Consortium Member or their respective Associates which is in the public domain, or which is obtained by the Consumer Trustee or its Associates through its or their own investigations;
 - iii. information provided by a Proponent in response to a particular evaluation criterion for the purpose of evaluating other criteria;
 - iv. any other matters arising from investigations (including probity investigation) by the Consumer Trustee or its Associates, interviews with Proponents, or responses to clarifications by Proponents;

and without notifying the Proponent or a Consortium Member (if applicable) of that information;

- v. appoint or decline to appoint any number of Selected Proponents or change Proponents or Selected Proponents at any time;
- w. require one or more of the Proponents and Competing Proponents to make a 'best and final offer';
- x. withdraw, cancel or modify (substantially or otherwise) the Project or any part of the Project;
- y. change the procurement method of the Project or any part of the Project in any way it sees fit and commence a new procurement process in relation to the Project on a similar or different basis to that outlined in these Guidelines, having regard to probity matters, if any;
- z. require the Proponent and any Consortium Member to enter into a Tender Process Deed;
- aa. require the Proponent or any Consortium Member to provide a performance security or guarantee at the time the Proponent submits a Financial Value Bid;
- bb. otherwise take any such other action as it considers appropriate in relation to the Tender Round; and
- cc. not attribute any reasons for any actions or decisions taken, including in respect of the exercise of any or all of the abovementioned rights and discretions.

5.31 Financial Value Bids binding

The Proponent (including each Consortium Member) acknowledges and agrees that:

- a. the Financial Value Bid:
 - i. will constitute an offer from the time the Financial Value Bid is submitted up to and including the last date of the Validity Period; and
 - ii. shall remain open for acceptance for the duration of the period referred to in 5.31(a)(i) notwithstanding that a Proponent is not appointed as the Selected Proponent; and
- b. The Proponent and each Consortium Member:
 - i. is prepared to enter into the Final Project Documents to which it is proposed to be a party in the form of the documentation included in the Proponent's Financial Value Bid;
 - ii. has had full access to and fully considered, and satisfied itself of, all relevant legal, technical, accounting, commercial, financial and insurance advice and matters relevant to its decision to enter into such documentation; and
 - iii. has complied with the EII Act and the Tender Documentation.

5.32 Consumer Trustee right to impose additional requirements

Without limiting Section 5.30, the Proponent, their Consortium Members and respective Associates acknowledge and agree that the Consumer Trustee may impose additional obligations, including by:

- a. issuing Addenda to these Tender Conditions;
- b. requiring the execution of confidentiality and process arrangements; or
- c. issuing further procedures and timetables to the Proponent or any Competing Proponent and requiring the Proponent or any Competing Proponent to comply with the further procedures and timetables provided.

5.33 Bid evaluation

These Guidelines may set out some but not all of the matters which, at the date of these Guidelines, the Consumer Trustee considers as or anticipates as being relevant in assisting the Consumer Trustee in its selection of a Selected Proponent. Depending on the market response to the Tender Round and information in Bids, additional matters may become relevant and require investigation by the Consumer Trustee. If necessary, the Consumer Trustee may seek further information from Proponents.

5.34 Recommended Bids and Selected Proponents

Prior to the recommendation of Recommended Bids to the SFV or Infrastructure Planner, the Consumer Trustee will finalise the necessary details of the Project Documents based on the Recommended Bids in preparation for the final contract award stage. To facilitate this, the Consumer Trustee may require additional information from one or more Proponents or their Associates and their participation in meetings relating to the Tender Round. This stage of the process could include finalising documentation with either the Consumer Trustee, Infrastructure Planner or the SFV (as applicable). Where applicable, the Proponent and their Associates must use reasonable endeavours and provide all reasonable assistance to finalise the Project Documents.

The selection of a Recommended Bid does not constitute an acceptance of the Bid submitted by the Selected Proponent and is without prejudice to the Consumer Trustee's right to finalise the Project Documents, Infrastructure Planner's right to grant Access Rights, or the SFV's right to enter into the Project Documents with any other Proponent or any other person.

5.35 Material change in circumstances

The Proponent must notify the Consumer Trustee promptly in writing:

- a. of any event which may affect or have an impact on the financial position or capacity of the Proponent or any Consortium Member or the ability of the Proponent or Consortium Member to continue to participate in the Tender Round or comply with the Tender Conditions;

- b. of any circumstances which may affect the completeness, accuracy, adequacy or correctness of any of the information provided in, or in connection with, the Bid; or the Proponent's participation in the Tender Round; or
- c. if, after lodgement of its Bid, there is a change in control (as that term is defined in Section 9 of the *Corporations Act 2001* (Cth)) of the Proponent or any Consortium Member.

Upon receipt of any notice pursuant to this Section 5.35, the Consumer Trustee reserves the right (without limitation to any other discretion or action) to:

- a. assess the change and terminate the Proponent's or any Consortium Member's further participation in the Tender Round; or
- b. invite the Proponent to amend its Bid accordingly.

5.36 No obligation to enter into contract or grant Access Rights

The SFV, which is the responsible entity for entering into any Project Document, is under no obligation to enter into any Project Documents with any Proponent or any other person, and Infrastructure Planner is under no obligation to grant Access Rights in respect of a Project. Irrespective of whether the Consumer Trustee selects a Selected Proponent for recommendation, if the SFV decides not to enter into a contract in relation to the Project, or Infrastructure Planner decides to not grant the required Access Rights (as applicable) for the Project, the Consumer Trustee may proceed with any alternative tender process. A Proponent (including a Selected Proponent) may not rely on any purported acceptance by the SFV or Infrastructure Planner (as applicable) of any offer or any representation to that effect unless and until SFV or Infrastructure Planner (as applicable) has formally entered into the Project Documents.

5.37 Debriefing and disclosure

The Consumer Trustee, at its discretion, may debrief any unsuccessful Proponent (including any Consortium Member) as to the Consumer Trustee's evaluation of that Proponent's Bid. Any such debriefing will focus solely on the Proponent's Bid and will not reveal any information that could compromise the Tender Round or any future Tender

Round (including any participants therein). The Consumer Trustee is under no obligation to give any reason for the non-acceptance of that Proponent's Bid.

Notwithstanding the above, the Consumer Trustee is under no obligation:

- a. to debrief any Proponent who is not a shortlisted Proponent;
- b. to disclose to any Proponent (including any Consortium Member) or any of their respective Associates, any discussions or negotiations the Consumer Trustee has had with any other Proponent or any amendments, additions or other changes the Consumer Trustee has allowed any other Proponent to make to its Bid, and is not obliged to enter into similar discussions or negotiations with the Proponent or allow or require amendments, additions or changes to be made to its Bid.

5.38 Addenda

Each Proponent (including each Consortium Member) agrees that:

- a. at any time during the Tender Round, the Consumer Trustee may, at its discretion, amend these Guidelines (including the Tender Conditions), by issuing an Addendum.
- b. neither the Consumer Trustee nor its Associates will have any liability to the Proponent (including any Consortium Member) as a consequence of any such Addendum.
- c. the Proponent must prepare its Bid to take into account and reflect the content of any such Addendum.

5.39 Price basis, English language and metric units

All costs and prices stated in a Bid must be in Australian dollars and exclude GST (where applicable). The Consumer Trustee will not accept Bids that contain costs and prices that are subject to variation because of fluctuations in currency exchange rates. Proponents are required to accept the risk of fluctuations in currency exchange rates.

Bids and all communications with the Consumer Trustee must be in English. All dimensions and units on plans and drawings and all references to measurements must be in metric units.

5.40 Severability

If any provision of the Tender Conditions is held to be invalid, unenforceable or illegal for any reason, the Tender Conditions shall remain otherwise in full force and effect apart from such provision which shall be deemed deleted only to the extent required to remedy such invalidity, unenforceability or illegality.

5.41 Communications

If a Proponent wishes to contact the Consumer Trustee in relation to the Tender Round, it will do so via the registered Proponent Q&A form on the Consumer Trustee's website.

The Proponent acknowledges and agrees that it will not, and that it will ensure that its Associates do not, make contact with the Consumer Trustee or any of its Associates to make enquiries of, discuss or make any disclosures in respect of any aspect of the Project or the Tender Round, otherwise than in accordance with these Guidelines.

5.42 Probity and confidentiality obligations

It is a condition of any Proponent's participation in the Tender Round that the Proponent makes the commitments in relation to probity and confidentiality as set out in the Tender Process Deed and that they comply with those commitments in their conduct pursuant to and for the duration of the Tender Round (except for any confidentiality obligations, which are ongoing and will extend beyond this Tender Round).

5.43 Governing Law

These Guidelines and the Tender Round are governed by the laws applying in the State of New South Wales. Each Proponent (including each Consortium Member) must comply with all relevant Laws and Approvals in preparing and submitting its Bid and in taking part in the Tender Round.



Regulatory context

The regulatory context for the tender process is complex and the Consumer Trustee is required to incorporate elements from several regulatory sources when conducting a Tender Round.

The regulatory context for the tender process is complex and the Consumer Trustee is required to incorporate elements from several regulatory sources when conducting a Tender Round.

This complexity is recognised and this section seeks to reduce this by summarising how regulatory instruments are relevant for this Tender Round.

The table below outlines key regulatory considerations which provide context for the Tender Round.

Regulatory consideration	Relevance to Tender Rounds
NSW Electricity Infrastructure Roadmap	Sets out certain requirements for the Consumer Trustee, including matters like Merit Criteria. Where relevant to the Tender Round, these requirements have been referred to in these Guidelines.
Key entities under the NSW Electricity Infrastructure Roadmap	Different entities perform different functions under the NSW Electricity Infrastructure Roadmap. The roles of different entities have been set out in these Guidelines.
Key enabling regulations for the NSW Electricity Infrastructure Roadmap	Regulations made by the NSW Government create an additional set of requirements on how the Consumer Trustee conducts Tender Rounds. Where relevant these regulations have been referred to in these Guidelines (e.g. the definition of Outstanding Merit).
IIO Report	Provides a range of highly relevant information, including the schedule and size of LTESA tenders. The IIO Report identifies what is expected to be required to best meet the long-term financial interests of NSW electricity customers.
Tender Rules	A gazetted document that sets out how the Consumer Trustee will conduct Tender Rounds in respect of the award of LTESAs and allocation of Access Rights.
NSW Renewable Energy Sector Board Plan	Describes a vision, developed by an independent board for the development of the NSW renewable energy sector. These Guidelines summarise the core requirements of the NSW Renewable Energy Sector Board Plan relevant for the Tender Round, - Proponents are encouraged to familiarise themselves with the broader objectives of the NSW Renewable Energy Sector Board .
Risk Management Framework	A risk governance document created by the Consumer Trustee, approved by the AER and required under section 51 of the EII Act. The Risk Management Framework supports management of risks relevant to NSW electricity customers arising from LTESAs. Aspects of the Risk Management Framework relevant to the Tender Round have been summarised in these Guidelines.

The remainder of this section provides further detail of these regulatory considerations, and outlines their relevance to the Tender Round.



6.1 NSW Electricity Infrastructure Roadmap

The Roadmap⁴⁵ is the NSW Government's plan to transform the NSW electricity sector into one that is clean, affordable and reliable.

It sets out a coordinated way forward to support private investment in renewable energy projects that generate at least the same amount of electricity in a year as 12 gigawatts of renewable energy capacity, and two gigawatts of long duration storage, by 2030.

To achieve this, the Roadmap is expected to unlock \$32 billion of timely and coordinated private sector investment in large-scale generation, long duration storage and transmission infrastructure. LTESAs will provide the financial support required to facilitate the private sector investment in generation and storage.

The Roadmap sets out a pathway for bringing at least five REZs online in time to deliver energy to NSW homes and businesses as coal-fired power stations retire. REZs are modern-day power stations that combine renewable energy generation such as wind and solar, storage such as batteries, and network infrastructure such as high-voltage poles and wires, to deliver energy to the homes, businesses and industries that need it.

⁴⁵ [NSW Electricity Infrastructure Roadmap Virtual Engagement Room](#)

6.2 Entities under the Roadmap

Newly established and existing entities work in an interdependent manner to implement the Roadmap, including the roles of the:

- Consumer Trustee (AEMO Services).
- Financial Trustee.
- Scheme Financial Vehicle.
- Infrastructure Planner (EnergyCo).
- Regulator.

6.2.1 Consumer Trustee

The Consumer Trustee (AEMO Services) acts in the long-term financial interests of NSW electricity customers and the independent decision-maker in the design and implementation of LTESAs. It has two key functions under the EII Act in relation to Tender Rounds:

- Develop and release the [Infrastructure Investment Objectives \(IIO\) Report](#) every two years, mapped to a Development Pathway (over a 20-year horizon) for electricity infrastructure and a 10-Year Plan for LTESA Tenders Rounds.⁴⁶
- Undertake tenders for LTESAs in accordance with regulation and the gazetted Tender Rules.⁴⁷



EnergyCo is the NSW Government controlled statutory authority that leads the delivery of the five NSW REZs.

⁴⁶ Section 45 of the EII Act

⁴⁷ Section 47 of the EII Act.

⁴⁸ Section 46 of the EII Act.

6.2.2 Infrastructure Planner

[EnergyCo](#) is the NSW Government controlled statutory authority that leads the delivery of the five NSW REZs. It coordinates REZ transmission, generation, firming and storage infrastructure projects to deliver efficient, timely and coordinated investment.

As the Infrastructure Planner, EnergyCo is responsible for ensuring that new network infrastructure is developed to connect the CWO REZ to the existing grid. To achieve this, it will lead the delivery of the CWO Transmission Project that includes running a competitive tender process to appoint a Network Operator to design, build, finance, operate and maintain the REZ network infrastructure.

EnergyCo continues to work with TransGrid (as the NSW jurisdictional transmission planner) and coordinate the delivery of complementary upgrades to TransGrid's existing infrastructure network.

EnergyCo will also oversee the implementation and acts as the REZ Scheme Administrator of the CWO REZ Access Scheme, which will enable the allocation of Access Rights.

6.2.3 Scheme Financial Vehicle (SFV)

The SFV will be the counterparty to any LTESAs⁴⁸ and would be expected to be highly rated from a credit perspective.

The SFV will be an entity established to intermediate cash flows between LTESA Projects and Distribution Network Service Providers (DNSPs) and will have a statutory right to receive contributions from DNSPs (who can pass these contributions on to NSW electricity customers). It will establish and maintain the Electricity Infrastructure Fund set out in Part 7 of the EII Act to manage the cash inflows and outflows.

The legislated structure is intended to fund long-term energy policy, independent of government and with a statutory right to recover its costs from the beneficiaries of the policies.

6.2.4 Financial Trustee

The Financial Trustee is appointed to establish and administer the SFV. It will hold all the shares issued in the SFV 'on trust' for the purposes of the EII Act as a statutory trustee.

6.2.5 Regulator

Australian Energy Regulator (AER) and Independent Pricing and Regulatory Tribunal (IPART) are the regulators under the Roadmap. IPART has been appointed by the Minister as the relevant regulator under section 64(1) of the EII Act.

The key functions of the AER under the EII Act include:

- Making five-year revenue determinations for network infrastructure projects authorised by the Consumer Trustee, including the calculation of the prudent, efficient and reasonable capital costs of these projects.
- Making annual contribution determinations regarding the Electricity Infrastructure Fund.
- Approving a risk management framework developed by the Consumer Trustee.
- Reviewing the Consumer Trustee's gazetted Tender Rules applicable to competitive tenders under the EII Act.

The key functions of the IPART under the EII Act include:

- Certain functions related to the NSW renewable energy sector plan (section 8 of the EII Act).
- Any other regulatory functions in the EII Act not otherwise conferred on another person/entity from time to time.

6.2.6 NSW Renewable Energy Sector Board

The [NSW Renewable Energy Sector Board](#) (Sector Board) was appointed by the Minister for Energy and one of its functions is to prepare a plan for the NSW renewable energy sector (Sector Board Plan).⁴⁹

The Sector Board Plan sets out how to cost effectively maximise the use of local goods and services and the employment of suitably qualified local workers in the construction and operation of infrastructure under the Roadmap. It also considers how to foster opportunities for apprentices and trainees.



⁴⁹ Section 7(4) of the EII Act.

6.3 Electricity Infrastructure Investment Act 2020 (NSW)

The delivery of the Roadmap is enabled by the *Electricity Infrastructure Investment Act 2020 (NSW) (EII Act)*.

Its primary objectives include:

- Improving affordability, reliability, security and sustainability of electricity supply in NSW.
- Co-ordinating investment in new generation, storage and network infrastructure in NSW, and to encourage such investment by reducing risk for investors.
- Supporting economic development, including by creating employment, investing in education and promoting local industry.⁵⁰

Through the EII Act (and the Roadmap), the NSW Government has committed to:

- Declaring five REZs in the Central West Orana, Illawarra, New England, South West and Hunter-Central Coast regions, with an intended network capacity of 12 gigawatts.
- Establishing an Electricity Infrastructure Investment Safeguard to deliver new generation, LDS and firming capacity, including through publication of the IIO Report and implementation of Tender Rounds by the Consumer Trustee.
- Establishing the Electricity Infrastructure Jobs Advocate and the Sector Board to ensure the use of locally manufactured and supplied goods and services, and maximise the engagement of suitably qualified local worker.
- Establishing a Transmission Development Scheme that will de-risk REZ investment.⁵¹

Relevance to Tender Rounds

The EII Act imposes several requirements for the conduct of the Tender Round for LTESAs, including in relation to:

- Content of the Tender Rules⁵²
- When and how the Consumer Trustee can make recommendations to the SFV about LTESAs⁵³
- Development of a risk management framework to protect the long-term financial interests of NSW electricity customers in connection with the risks associated with LTESAs.⁵⁴

In relation to Access Rights, it establishes how the Consumer Trustee is to determine the fees payable to the SFV for participation in an Access Scheme.⁵⁵ Specifically, the Consumer Trustee must consider the following principles:

- Maximising financial value for NSW electricity customers.
- Recovering the cost of the operation of the Access Scheme.
- Optimal use of the existing and planned infrastructure in the REZ.
- Other principles prescribed by the regulations.

⁵⁰ Section 3(1) of the EII Act.

⁵¹ Page 30 of NSW Electricity Infrastructure Roadmap Overview.

⁵² Section 47(5) of the EII Act.

⁵³ Section 48 of the EII Act.

⁵⁴ Section 51 of the EII Act.

⁵⁵ Section 26 of the EII Act.

6.4 Electricity Infrastructure Investment Regulation 2021 (NSW)

Outline

The *Electricity Infrastructure Investment Regulation 2021 (NSW)* (EII Regulation) was enacted on 12 March 2021 to deal with matters under the EII Act, including the:

- Functions of the NSW renewable energy sector board and the objectives of the Sector Board Plan.
- Calculation of energy security targets.
- Electricity Infrastructure Fund.
- Electricity Infrastructure Investment Safeguard.

Relevance to Tender Rounds

A Tender Round is administered in accordance with any requirements prescribed by the EII Regulation. The regulations impose additional requirements on the Consumer Trustee in conducting the Tender Round, including the:

- Manner in which the Tender Round must be conducted.
- Matters to be considered when conducting the Tender Round.
- Matters to be considered when assessing Outstanding Merit.
- Matters to be considered when assessing the Financial Value.
- Matters to be considered when making a recommendation to the SFV.
- Functions of the Consumer Trustee and the Infrastructure Planner in relation to a competitive tender for Access Rights.

6.5 Outstanding Merit

The Consumer Trustee must not recommend a generation LTESA for a Project that is not part of a REZ geographic boundary⁵⁶ unless the Consumer Trustee is satisfied that the generation LTESA for the Project shows outstanding merit, in accordance with section 48(3) of the EII Act (**Outstanding Merit**). The EII Regulation further provides that a circumstance in which an LTESA may show Outstanding Merit includes the Consumer Trustee being satisfied that the LTESA shows more merit than other recommended LTESAs for generation infrastructure.⁵⁷

When making a recommendation for an LTESA outside the geographic boundary of a REZ, the Consumer Trustee must consider:

- The long-term financial interests of NSW electricity customers.
- How LTESAs contribute to achieving the Infrastructure Investment Objectives.
- The non-financial value criteria of the LTESA, being the [Project Merit Criteria](#) referenced in these Guidelines.
- The impact of any generation infrastructure under an LTESA on congestion in the NSW region.⁵⁸

⁵⁶ The REZ geographical boundaries are outlined in the relevant REZ Declaration published in the [NSW Government Gazette](#).

⁵⁷ EII Act, section 48(4)(a), EII Regulation reg 26A(1).

⁵⁸ EII Act section 48(4)(b), EII Regulation reg 26A(2).

6.6 IIO Report

The EII Act requires that the Consumer Trustee prepare a report every two years about the Infrastructure Investment Objectives.

These are objectives set under the EII Act for the construction of generation, long duration storage and firming infrastructure. They are:

- Minimum objectives for the construction of infrastructure by the end of 2029 including:
 - At least the same amount of generation as 12 gigawatts of renewable energy.
 - At least 2 gigawatts of long duration storage.
- Overall objectives to construct:
 - Generation infrastructure to minimise electricity costs for NSW electricity customers.
 - Long duration storage infrastructure to meet the reliability standard.
 - Firing infrastructure to meet the energy security target and reliability standard.

Each IIO report must contain a:

- Development pathway for the construction of the infrastructure to meet the Infrastructure Investment Objectives over the following 20 years.
- Ten (10) year plan for competitive tenders for LTESAs that the Consumer Trustee will conduct to give effect to the development pathway.

Regulations made under the EII Act set out additional items that the report must contain or matters that the Consumer Trustee must have regard to in preparing the report.

In respect of the Tender Round, under section 45(6) of the EII Act, the Consumer Trustee must exercise its functions on the basis of these IIO Reports. Each IIO Report will be a key input to the decision making for the Consumer Trustee with respect to indicative timing, scale and scope of competitive tenders for LTESA, as well as a critical signal to the market on these matters.

The inaugural IIO Report was released on 7 December 2021 and set out a development pathway and ten-year plans for generation and long-duration storage infrastructure.

6.7 Tender Rules

Under section 47(3) of the EII Act and regulation 42A of the EII Regulation, a Tender Round must be carried out in accordance with the Tender Rules. The intent of the Tender Rules is to provide the framework and rules for engagement by Proponents on the structure and design of Tender Rounds, specifically in respect of the matters outlined below.

Relevance to Tender Rounds

The Consumer Trustee is required to make a set of Tender Rules.⁵⁹ For Tender Rounds involving LTESAs, the Tender Rules must be gazetted before announcing and holding Tender Rounds and deal with the:

- Eligibility criteria for making a Bid.
- Notification of the opening of the Tender Round.
- Procedure for making a Bid, including the information required to be included in a Bid.
- Fee payable for making a Bid and requirements for bonds or other security.
- Assessment of a Bid by the Consumer Trustee.
- Other matters the Consumer Trustee considers necessary.
- Matters prescribed by the regulations.⁶⁰

6.8 The NSW Renewable Energy Sector Board Plan

Outline

Under the EII Act, one of the Sector Board's key functions is to prepare and provide to the Minister a plan for the NSW renewable energy sector, in particular in relation to the operation of the sector and the manufacture and construction of infrastructure in the sector.⁶¹ Once approved by the Minister upon recommendation by the IPART, the Sector Board Plan must be published on the OECC website and takes effect on the day it is published.⁶²

⁵⁹ EII Act, section 47(5) and EII Regulation, reg 42A(2)(a)

⁶⁰ Sections 47(5) and 47(7) of the EII Act.

⁶¹ Section 7(4)(a) of the EII Act.

⁶² Section 8(5) of the EII Act.

⁶³ Section 8(1) of the EII Act.

⁶⁴ EII Regulation, reg 5

⁶⁵ Section 9(1) of the EII Act.

⁶⁶ Section 4(4) of the EII Act. Please see [MC7](#) and [MC8](#) for further details on how this will be assessed in the IAPP.

The Sector Board Plan must set out how to, in a cost-effective way, achieve the following in the construction of generation, storage and network infrastructure carried out under the EII Act:

- Maximising use of locally produced and supplied goods and services.
- Maximising employment of suitable qualified workers.
- Fostering opportunities for apprentices and trainees.⁶³

It also specifies that the Sector Board Plan must protect the financial interests of NSW electricity customers and be consistent with Australia's international trade obligations.⁶⁴

Relevance to Tender Rounds

The Consumer Trustee must consider the Sector Board Plan when exercising its functions, including conducting the Tender Round, assessing and making recommendations on selected Projects.⁶⁵

6.9 First Nations Guidelines

Under section 4 of the EII Act, the Minister is to issue guidelines about consultation and negotiation with the local Aboriginal community in relation to relevant projects for the purposes of increasing employment and income opportunities for the local Aboriginal community.

Relevance to Tender Round

The Consumer Trustee must consider the First Nations Guidelines when exercising its functions, including conducting the Tender Round, assessing and making recommendations on selected Projects.⁶⁶

6.10 Risk Management Framework

Outline

The purpose of the Risk Management Framework is to protect the financial interests of NSW electricity customers in connection with the risks associated with LTESAs. To achieve this objective, the Risk Management Framework describes, coordinates, and governs risk management of:

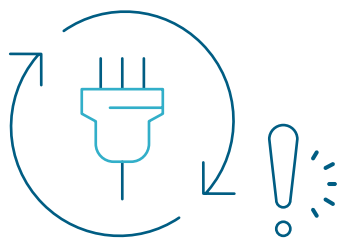
- The five specific risks related to LTESAs that are covered by the Risk Management Framework.
- Specific risks to be considered by the Consumer Trustee as may be set out in the EII Regulations from time to time.
- The requirements in the EII Act for the Consumer Trustee to act in the long-term financial interests of NSW electricity customers.

The Risk Management Framework:

- Is prepared by the Consumer Trustee in accordance with section 51(1) of the EII Act.
- Is approved by AER as the regulator in accordance with section 51(3) of the EII Act.
- Provides for the roles and responsibilities of the Consumer Trustee, Financial Trustee and SFV under the Risk Management Framework.

Relevance to Tender Rounds

The Consumer Trustee must act in accordance with the Risk Management Framework, including with respect to the recommendation of LTESAs.



The purpose of the Risk Management Framework is to protect the financial interests of NSW electricity customers in connection with the risks associated with LTESAs.

6.11 REZ and Access Scheme Declarations

6.11.1 REZ Declarations

Under the EII Act, the Minister may declare a REZ comprising (REZ Declaration):⁶⁷

- A specified geographical area of NSW.
- Specified generation, storage or network infrastructure, including planned or existing infrastructure.

The Minister may amend a REZ Declaration from time to time to expand the specified geographical area of the REZ, increase the intended network capacity, specify additional general, storage and network infrastructure, provide further details and specifications or correct a minor error.⁶⁸

Central-West Orana REZ

The CWO REZ was formally declared by the Minister on 5 November 2021. This REZ Declaration is the first step in formalising the REZ and establishes EnergyCo as the [Infrastructure Planner](#). It also sets out:

- Intended network capacity (size), geographical area (location) and infrastructure that will make up the REZ.
- Enables and sets the scope of key legislative functions under the EII Act, including REZ access schemes and REZ network infrastructure projects.

6.11.2 Access Scheme Declaration

The Minister may to declare the Access Scheme that is to apply in a REZ or part of a REZ (Access Scheme Declaration).⁶⁹ An Access Scheme Declaration must be consistent with the objectives of the EII Act, and may also specify the following:

- The person or body who is to administer the Access Scheme.
- How Access Rights are to be conferred on participants.
- The terms and conditions of Access Rights.
- The functions of the AER in relation to the Access Scheme.
- The rights and liabilities of the SFV in relation to the Access Scheme.
- Other matters prescribed by the regulations.⁷⁰

⁶⁷ Section 19(1) of the EII Act.

⁶⁸ Section 22(1) of the EII Act.

⁶⁹ Section 24(1) of the EII Act.

⁷⁰ Sections 24(3) and (5) of the EII Act.

Project Documents



The template Project Documents can be found here.



Project Documents

The template [Project Documents can be found here.](#)

Glossary



Definitions

Unless otherwise defined in the table below, all terms defined in the EII Act and EII Regulation apply in this document.

Term	Definition
Access Scheme	An access scheme declared by the Minister under EII Act, section 24, to apply in a renewable energy zone or part of a renewable energy zone.
Access Scheme Declaration	As defined in Section 6.10.2.
Access Fee	A fee paid in return for an Access Right.
Access Right	Access Rights allocated under a declared Access Scheme that authorises access to, and use of, the Access Rights Network.
Access Right Agreements	One or more agreements between the Infrastructure Planner or SFV and an eligible operator containing obligations relating to the development or operation of a Project.
Access Rights Network	The electricity transmission network as included in the Access Scheme Declaration.
Addendum	Any document issued by the Consumer Trustee after the date of these Guidelines and labelled as an "Addendum" to these Guidelines; collectively known as " Addenda ".
AEMO	Australian Energy Market Operator Limited (ABN 94 072 010 327).
AEMO Services	AEMO Services Limited (ABN 59 651 198 364).
AER	Australian Energy Regulator.
Aggregate Expected Capacity Profile	As defined in Section 2.3.
Aggregate Maximum Capacity Cap	As defined in Section 2.4.
Alternative Bid	An Alternative Financial Value Bid or an Alternative Product Bid.
Alternative Financial Value Bid	The document submitted by a Proponent following a Project Bid, forming part of a Financial Value Bid, as described in Section 3.1.5, including any Returnable Schedules, together with any additional information submitted by the Proponent.
Alternative Product Bid	The document submitted by a Proponent following a Project Bid, forming part of a Financial Value Bid where the Product selection is changed to an Access Right only, as described in Section 3.1.5, including any Returnable Schedules, together with any additional information submitted by the Proponent.
Approval	Any approvals, authorisations, permits, consents, licences, registrations, determinations, certificates, permissions, exemptions and the like from any Authority or under any Law required to be issued, obtained or satisfied in connection with the performance by the Selected Proponent of its obligations under the Project Documents.
Annuity Cap	As defined in Section 2.2.

Term	Definition
Associate	<p>In relation to a person, any Related Body Corporate of that person or any officer, employee, agent, contractor, consultant, nominee, licensee, or adviser of that person or that Related Body Corporate and:</p> <ul style="list-style-type: none"> • in the case of a Proponent, includes: <ul style="list-style-type: none"> – each Consortium Member and any Related Body Corporate, adviser, officer, employee, agent, contractor, consultant, nominee, licensee or adviser of a Consortium Member; – any Debt or Equity Providers and any Related Body Corporate, adviser, officer, employee, agent, contractor, consultant, nominee, licensee or adviser of each Debt or Equity Provider; – to the extent they are not otherwise Consortium Members, the entities proposed to enter into the Project Documents and to form part of the corporate group in which those entities are included, – but excludes the Consumer Trustee and its Associates; and • in the case of the Consumer Trustee, any officer, employee, agent, contractor, consultant, nominee, licensee or adviser of it, but does not include Proponents or Consortium Members.
Authority	Any government department, local government council, government or statutory authority, body, instrumentality, minister, agency or other authority exercising administrative or regulatory functions.
Bid	Project Bid and/or Financial Value Bid submitted by Proponents in a Tender Round.
Bid Variable	Commercial terms of the LTESA that may be altered by the Proponent in either the Default Financial Value Bid or Alternative Financial Value Bid.
Bid Entity	The legal entity to be responsible for the Proponent’s Project Bid and Financial Value Bid, and counterparty to the PDA and/or LTESA, as proposed in accordance with Eligibility Criteria 16.
Business Day	A day other than Saturday, Sunday and any other day not taken to be a public holiday in Sydney, Australia.
Claim	<p>Any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity) made:</p> <ol style="list-style-type: none"> i. in connection with the Tender Round, Tender Rules, these Guidelines, the Project Documents or the Project; ii. at law or in equity; or iii. for specific performance, restitution, payment of money (including damages), an extension of time or any other form of relief.
Closing Date and Time	The Financial Value Bid Closing Date and Time or the Project Bid Closing Date and Time, as relevant.
Community Engagement Plan	The plan to be submitted as part of a Bid in respect of EC9 and Merit Criteria 7 that complies with the requirements set out in Returnable Schedule for Merit Criteria 7.
Commercial Operations Date (COD)	In respect of a Project, has the meaning given to that term in the relevant Project Development Agreement.

Term	Definition
Competing Proponent	In respect of a Proponent, any person responding to these Guidelines or participating in the Tender Round other than the Proponent.
Connection Enquiry Response	Network Service Provider's response in relation to a Project, required to be provided under set timeframes under the NER, to the connection enquiry made to connect to the distribution or transmission network.
Contracted Percentage	As defined in Section 2.1.
Consortium Member	Each of the following entities (which may form part of the Proponent) in their individual capacity: <ul style="list-style-type: none"> i. sponsor(s), including each 'Proponent Consortium Member' as that term is defined in the Consortium Process Deed; ii. any special purpose vehicle or entity that is intended to be the Bid Entity; and iii. any additional entity included in the Proponent in accordance with the process set out in the Consortium Process Deed.
Consortium Process Deed	As defined in the Tender Process Deed.
Consumer Price Index (CPI)	The Consumer Price Index as published by the Australian Bureau of Statistics.
Consumer Trustee	AEMO Services, in its capacity as the NSW Consumer Trustee appointed pursuant to section 60 of the EII Act. References to the Consumer Trustee include, where the context requires, the Consumer Trustee's Associates.
CWO	Central-West Orana.
Debt or Equity Provider	Any actual or potential provider of debt or equity funding, facilities or accommodation directly or indirectly to the Proponent in relation to the Project, including any security trustee, bond trustee, agent, underwriter, arranger, financial guarantor, bond provider or hedge counterparty however described.
Default Financial Value Bid	The document submitted by a Proponent following a Project Bid, being the mandatory part of a Financial Value Bid, as further described in Section 3.1.5 including any Returnable Schedules, together with any additional information submitted by the Proponent.
Development Approval	A 'development approval' pursuant to the <i>Environmental Planning and Assessment Act 1979</i> (NSW).

Term	Definition
Disclosed Information	<p>The following information (of whatever nature, including written, graphical, electronic, oral or in any other form) which is disclosed to, or otherwise obtained by or on behalf of, the Proponent or Consortium Member or any respective Associate in connection with the Project or Tender Round 1:</p> <ul style="list-style-type: none"> • these Guidelines and any information disclosed pursuant to these Guidelines (and other documents released as part of the Tender Round) as part of the Tender Round; • any oral or written advice, representations or information given by or on behalf of the Consumer Trustee or any of its Associates during Tender Round 1; • all material contained in any data room used by the Consumer Trustee and the Proponents; and • each Bid to the extent that it contains or would reveal any of the information referred to in the paragraphs above, any other information which the Proponent, Consortium Member or any respective Associate knows or ought reasonably to know is confidential to the Consumer Trustee or any of its Associates or should be treated as such.
DWAP	Dispatch-Weighted Average Price. The average of the electricity spot price that a project is exposed to, weighted by the volume of energy it dispatches in a period.
EII Act	<i>Electricity Infrastructure Investment Act 2020 (NSW).</i>
EII Regulation	<i>Electricity Infrastructure Investment Regulation 2021 (NSW).</i>
Eligible Proponent	Proponents who have met the Proponent Eligibility Criteria and have progressed to the Project Bid stage in a given Tender Round.
Eligibility Criteria or EC	Proponent Eligibility Criteria and Project Eligibility Criteria.
Expected Capacity Profile	As defined in Section 2.3.
Final Project Documents	Each final Project Document and other contract documentation entered into or to be entered into by the Selected Proponent and the relevant counterparties including the SFV among others (as applicable) in order to document the terms and conditions for undertaking the Project.
Financial Close	In respect of a Project, has the meaning given to that term in the relevant Project Development Agreement.
Financial Trustee	The 'financial trustee' appointed by the Consumer Trustee to administer the SFV pursuant to the EII Act, section 61.
Financial Value Assessment	The assessment methodology to be used by the Consumer Trustee for assessment of Financial Value Assessments.
Financial Value Bid	The document submitted by a Proponent following a Project Bid, comprising a Default Financial Value Bid and/or an Alternative Bid as described in Section 3.1.5, including any Returnable Schedules, together with any additional information submitted by the Proponent.
Financial Value Bid Closing Date and Time	As defined under Tender Round 1 details.

Term	Definition
Financial Value Shortlist	Selected shortlist of Financial Value Bids to be progressed to Portfolio Assessment.
First Nations Guidelines	Set of guidelines that the Minister is to issue about consultation and negotiation with the local Aboriginal community in relation to relevant projects for the purposes of increasing employment and income opportunities for the local Aboriginal community under section 4 of the EII Act.
Fixed Price	As defined in Section 2.1.
Forecast Curtailment	As defined in Section 2.4.
Generation LTESA	A financial derivative contract that provides an LTES Operator with a series of options to access a Fixed Price, cash settled swap under the terms of the agreement.
IIO Report	Infrastructure Investment Objective Report prepared by the Consumer Trustee under EII Act, section 45(2).
Infrastructure Investment Objectives	The 'infrastructure investment objectives' as defined in section 44 of the EII Act.
Infrastructure Planner	The 'infrastructure planner' appointed in respect of a REZ or part of a REZ (as applicable) pursuant to EII Act, section 63, being Energy Corporation of New South Wales (ABN 13 495 767 706).
Industry and Aboriginal Participation Plan (IAPP)	The plan to be submitted as part of a Bid in respect of EC12 and Merit Criteria 8 the complies with the requirements set out in the Returnable Schedule for Merit Criteria 8.
Initial Allocation	The initial allocation as described in Section 2.3.1.
Initial Security	In respect of a Bid, has the meaning given to that term in the Project Development Agreement.
Initial Term	As defined in Section 2.4.
Intellectual Property Rights	<p>All existing and future rights in the nature of intellectual property or industrial property (within the meaning of the term 'industrial property' in Article 1 of the Paris Convention for the Protection of Industrial Property) throughout the world, including:</p> <ul style="list-style-type: none"> • copyright; • trade and service marks (whether registered or unregistered); • designs (whether registered or unregistered); • patents and inventions (whether or not patented or patentable); • internet domain names; • trade, business or company names; and • confidential information and trade secrets, <p>whether tangible or intangible, which incorporates, embodies or is based on any of the things referred to in the paragraphs above.</p>
Late Bids	Project Bids received after the Project Bid Closing Date and Time or Financial Value Bids received after the Financial Value Bid Closing Date and Time (as applicable).

Term	Definition
Law	Commonwealth, state, or local legislation, judicial, administrative, or regulatory decrees, judgments, awards or orders and all common laws and principles of equity and, for the avoidance of doubt, includes any Regulatory Instrument.
Liability	Any loss, cost, liability or expense whether: <ul style="list-style-type: none"> a. arising from or in connection with any proceeding or Claim or not; b. liquidated or not; c. legal or equitable; d. present, prospective or contingent; or e. owed, incurred or imposed by or to or on account of or for the account of any person alone or severally or jointly with another or others.
LDS	Long duration storage.
LDS LTESA	A financial derivative contract that provides an LTES Operator with a series of options to access a variable annuity payment. If the option is exercised, the annuity payment will be in the form of a top up to net operational revenues achieved by the Project.
LGC	Large-scale Generation Certificate.
LTESA	Long-term Energy Service Agreement.
LTES Operator	Party responsible for the operation and management of generation or long duration storage facility in connection with a LTESA.
Maximum Capacity	The generation capacity that a Project intends to be registered with AEMO to dispatch up to into the NEM.
Maximum Capacity Profile	As defined in Section 2.3.
Merit Criteria (MC)	Merit Criteria as set out in Section 4.2 of these Guidelines.
Minimum Generation	As defined in Section 2.1.
Minister	NSW Minister for Energy.
MLF	Marginal Loss Factor.
NEL	The National Electricity Law, set out in the schedule to the <i>National Electricity (South Australia) Act 1996 (SA)</i> as it applies in NSW.
NEM	National Electricity Market.
Net Revenue Threshold	As defined in Section 2.2.
NER	The National Electricity Rules made under the NEL, as it is applied in NSW.
Network Operator	The network operator authorised by the Consumer Trustee to carry out the development, construction and operation of the access rights network under section 31(1)(b) of the EII Act.

Term	Definition
Non-Compliant	In relation to a Bid means a response that is not substantially complete, or which does not substantially address each of the requirements set out in these Guidelines or the Tender Rules, or which addresses the requirements set out in these Guidelines or the Tender Rules but not in the manner contemplated by these Guidelines.
Non-REZ Projects	A Project that is not within the geographical boundary of a declared REZ.
NSP	Network Service Provider.
NSW Regional Reference Node	The Regional Reference Node is the designated node where the regional spot price is set. For NSW, this is the Sydney West 330 kV node.
OECC	NSW Office of Energy and Climate Change.
Outstanding Merit	As defined in Section 6.5.
Portfolio Assessment	As described in Section 3.1.7.
Portfolio Shortlist	Selected shortlist of Financial Value Bids at the conclusion of Portfolio Assessment stage.
Products	LTESAs or Access Rights – the products being procured under this Tender Round.
Project	A physical electricity generation or storage facility built in connection to an LTESA or Access Right, including any proposed supporting network remediation and ‘shallow’ connection assets.
Project Assessment	The assessment methodology to be used by the Consumer Trustee to assess and shortlist Bids.
Project Bid	The document submitted by a Proponent in relation to the Project, including any Returnable Schedules, together with any additional information submitted by the Proponent.
Project Characteristics	The key technical characteristics of a Project including its registered capacity, maximum capacity, fuel source and operational life.
Project Development Agreement (PDA)	A contract governing the construction and operation of a Project awarded an LTESA and/or an Access Right.
Project Document	<p>The PDA and (where applicable) LTESA, together with any other documents that are:</p> <ul style="list-style-type: none"> • required or contemplated under the PDA and/or applicable LTESA; or • specified by the Consumer Trustee as required to be entered into by the Consumer Trustee, the Proponent and, if relevant, others at or around the same time as the PDA and/or the applicable LTESA. <p>The full suite of Project Documents will be determined on a case-by-case basis for each Proponent, having regard to the relevant Bid and specific Project arrangements.</p>
Project Eligibility Criteria	Eligibility Criteria as set out in Section 4.1.2 of these Guidelines.
Project Bid Closing Date and Time	As defined under Tender Round 1 details.

Term	Definition
Project Shortlist	Selected shortlist to progress to the Financial Value Bid stage, based on assessment against the Project Merit Criteria.
Proponent	Any person (who alone) or persons (who together, including Consortium Members), submit, or intend to submit, a Project Bid and Financial Value Bid, including a shortlisted Proponent and a Selected Proponent.
Proponent Eligibility Criteria	Eligibility Criteria as set out in Section 4.1.1 of these Guidelines.
Q&A Process	The question and answer process in respect of the Tender Round described in Section 3.1.1 of these Guidelines.
Recommended Bid	As defined in Section 3.2 of these Guidelines.
Regulator	Australian Energy Regulator (AER).
Regulatory Instrument	<ul style="list-style-type: none"> • the NEL and the NER; • the EII Act; • any other Law that regulates the electricity industry in NSW; and • any relevant licence, Approval, code, instruction, direction, condition or orders of an Authority (whether formal or informal) that regulates a person's activities in respect of the electricity industry.
Repayment Threshold Price	As defined in Section 2.1.
Returnable Schedule	Schedules to be provided by the Proponent as part of the submission of a Bid as referred to in the Tender Guidelines.
REZ Declaration	As defined in Section 6.10.1.
REZ Scheme Administrator	The person or body specified in the Minister's declaration pursuant to EII Act, section 24(5)(a), to administer a REZ Access Scheme, being Energy Corporation of New South Wales (ABN 13 495 767 706).
Risk Management Framework	The 'risk management framework' developed by the Consumer Trustee pursuant to EII Act, section 51.
Scheme Financial Vehicle (SFV)	The counterparty to the LTESAs and Project Development Agreements, responsible for administering payments and, where applicable, collecting access fees for distribution to relevant entities.
SEARs	Secretary's Environmental Assessment Requirements
Sector Board	The NSW Renewable Energy Sector Board.
Sector Board Plan	The NSW Renewable Energy Sector Board Plan prepared by the Sector Board pursuant to section 7(4)(a) of the EII Act, as further described in Section 6.8 (not yet published as at 7 September 2022).
Security for Process Bond	In respect of a Bid, has the meaning given to that term in the Tender Process Deed.
Selected Proponent	In respect of a Proponent, any person whose Project is selected as set out in Section 3.3 to be awarded the relevant Project Documents.
Selection criteria	Eligibility Criteria and Merit Criteria

Term	Definition
Target Transmission Curtailment Level	The maximum level of forecast curtailment allowable in considering the recommendation of Access Rights.
Tender Commencement Date	The date of which the Tender Round is opened.
Tender Conditions	The terms and conditions set out in Section 5 these Guidelines and such further terms and conditions that are otherwise imposed by the Consumer Trustee in respect of the Tender Round.
Tender Documentation	The documentation issued by the Consumer Trustee in respect of the Tender Round, including: <ul style="list-style-type: none"> i. the Tender Rules; ii. these Guidelines; iii. Tender Round market briefing materials; and iv. the Tender Process Deed executed by the relevant Proponent, but does not include: <ul style="list-style-type: none"> v. the Project Documents and any other contract documents issued in conjunction with the Tender Documentation listed above.
Tender Guidelines or Guidelines	This document, including its Tender Round details (before the table of contents), schedules, attachments and appendices, and any Addenda.
Tender Process Deed	A legally binding deed, setting out the terms under which Proponents participate in the Tender Round.
Tender Registration Date	Refer Tender Round 1 details, unless otherwise notified by Consumer Trustee.
Tender Round	The Tender Round as specified in these Guidelines, commencing date notified by the Consumer Trustee on the Consumer Trustee's website and concluding when the Consumer Trustee has notified each Proponent that the process has concluded.
Tender Rules	Tender rules, made by the Consumer Trustee under EII Act, section 47(5), and under EII Regulation, regulation 42A, that sets out how the Consumer Trustee will conduct Tender Rounds in respect of the award of LTESAs and allocation of Access Rights.
Total Project Contract Value	The summation of all the costs that the Proponent has to pay to deliver the Project exclusive of GST.
Validity Period	The validity period of the Financial Value Bid to be specified by the Consumer Trustee prior to Financial Value Bid Closing Date and Time.
Value for Money (VFM) Assessment	As defined in Section 3.1.6.
Value for Money (VFM) Bid	As defined in Section 3.1.6.



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