



NSW Electricity Infrastructure Tenders

Guidelines – Tender Round 2 Firming Infrastructure

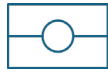
March 2023



ACKNOWLEDGEMENT TO COUNTRY

AEMO Services would like to acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, water and culture.

We pay our respect to their Elders, past, present and emerging.



IMPORTANT NOTICE

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 of 1 March 2023. Legislation and regulations may be subject to change.

The Tender Round is conducted under the EII Act and associated regulations. Further regulations and Regulatory Instruments (not yet made) may apply to a Tender Round including after it commences and these regulations and Regulatory Instruments may be required to apply to the Tender Round. In this Tender Round new regulations could include, for example, changes to the NEL and NER requiring an increase in firming infrastructure procured through this Tender Round. Any new regulations 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 amended, withdrawn, reissued or supplemented at any time. 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 NEL, the NER, 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 and share Proponent information with EnergyCo, TransGrid and other relevant entities with regulated roles in the NEM, 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 2 Firming Infrastructure – details





A. Welcome to the Firming Infrastructure Tender Round

AEMO Services, as the Consumer Trustee under the *Electricity Infrastructure Investment Act 2020 (NSW) (EII Act)*, has been directed by the NSW Minister for Energy to conduct a competitive tender for firming infrastructure. The competitive tender will be for a minimum of 380 MW but could be expanded.

The Consumer Trustee has published its [IIO Report \(2022\)](#) – its plan for exercising certain functions to assist with meeting NSW's future electricity needs. The IIO Report (2022) outlines a development pathway for the next twenty years and a tender plan for the next decade, specifically focusing on the required timing and volume of firming infrastructure to meet the requirements of the NSW energy system.¹

Firming infrastructure or firming capacity generally refers to flexible capacity that is scheduled by AEMO and can be dispatched through AEMO's central dispatch system. A range of infrastructure types, including storage and certain generation and demand side Projects, can meet these requirements.

Firming infrastructure is necessary to address a forecast gap (AEMO's Energy Security Target Monitor Report)² in firm capacity required to meet the NSW Energy Security Target (EST) in 2025-26 because of the earlier than previously scheduled closure of the Eraring Power Station.³ Firming infrastructure can also contribute to meeting the Reliability Standard related to unserved energy.⁴

Energy Security Target (EST)

The [Energy Security Target Monitor \(AEMO\)](#) assesses whether the forecasted firm capacity in NSW is sufficient to meet the EST defined in the EII Act for each of the next 10 financial years.

What firming technology types can participate?

Any firming technology type that AEMO schedules in the central dispatch process is expected to be able to participate in this Tender Round provided it meets the [Eligibility Criteria](#). This includes Projects that AEMO can schedule through central dispatch, with a minimum storage duration or run time of approximately 2 hours. Examples of such applicable technologies include battery storage,⁵ thermal storage, gas peaker plants and loads capable of participating in the Wholesale Demand Response mechanism.

¹ IIO Report (2022), sections 2 and 3.

² AEMO (May 2022), *Energy Security Target Monitor Report*, <https://www.energy.nsw.gov.au/sites/default/files/2022-08/2022-energy-security-target-monitor-report.pdf>

³ IIO Report (2022), sections 1.3 and 2.4; Energy Security Target Monitor Report (May 2022 Further Report), section 2.

⁴ IIO Report (2022), sections 2.4 and 5.4.

⁵ Including hybrid and battery storage Projects AEMO would register as a 'Scheduled Integrated Resource Provider'.



Select the Product you are seeking

WHAT PROPONENTS CAN BID FOR

Two Products are available:

Firming Supply LTESA

covering all non-demand response firming infrastructure, which includes all assets scheduled in the NEM

OR

Demand Response LTESA

applies to loads scheduled through the Wholesale Demand Response mechanism

The LTES Operator will have the option to access a capped annuity payment as a top-up to the operating revenues of the Project for both Products.

Key items which Proponents need to consider for this Tender Round 2 Firming Infrastructure

Key item (including hyperlink)	What you need to know
<u>Indicative tender size as set out in the IIO Report (2022)</u>	<p>Minimum 380 MW (after any EST contribution factor adjustments) commissioned by 1 December 2025.</p> <ul style="list-style-type: none"> Where consistent with the EII Act, the Consumer Trustee may exercise discretion to recommend a greater or lesser volume of Firming LTESAs than the indicative size in the IIO Report.⁶
<u>Location and EST contribution factors</u>	<p>For Firming Supply LTESA</p> <p>All Projects located in NSW region of the NEM.</p> <ul style="list-style-type: none"> Project-specific EST contribution factors will be calculated during the tender process and applied in the assessment process to Projects located outside the Sydney-Newcastle-Wollongong (SNW) sub-region. EST contribution factors <1.00 will adversely impact a Project's merit assessment.
	<p>For Demand Response LTESA</p> <p>Projects must be physically located in the SNW sub-region.</p> <ul style="list-style-type: none"> Demand response firming infrastructure must physically have the load (or aggregated loads) within the SNW sub-region.
<u>Offset contribution to scope 1 emissions</u>	<p>The <i>Electricity Infrastructure Investment Regulation 2021</i> (EII Regulation) establishes the requirement to offset contributions to scope 1 emissions of greenhouse gas in NSW.⁷</p> <ul style="list-style-type: none"> Projects that generate scope 1 emissions must comply with an annual offset and surrender regime managed by the offset regulator. These requirements are set out in the EII Regulation and compliance will be required by relevant Project Documents. Battery Projects charging from the NEM are not required to offset emissions under the EII Regulation.
<u>Treatment of future commitments related to social licence</u>	<p>Merit Criteria 6 (Community engagement, shared benefits and land use considerations) and Merit Criteria 7 (Regional economic development) are considered in light of the technology and Project characteristics.</p> <ul style="list-style-type: none"> It is recognised that some types of firming infrastructure will have a lower impact on local communities than other types of energy infrastructure. Opportunities for regional economic development will vary across Project and technology types. Demand Response Projects are considered to be likely to have no community impact.
<u>Contribution to Reliability Standard</u>	<p>Under Merit Criteria 1 (Financial Value) assessment, the most significant financial benefit to NSW electricity customers from firming infrastructure is expected to be the reduction in unserved energy events (USE), which contributes to meeting the Reliability Standard.</p> <ul style="list-style-type: none"> Projects with longer durations will be favoured because longer durations can significantly contribute to the forecast unserved energy events. The contribution to unserved energy events also increases with installed capacity, with larger Projects able to make a more significant contribution.

⁶ This is provided that recommendations are consistent with requirements in the EII Act, including the long-term financial interests of NSW electricity customers.

⁷ EII Reg, Part 12, Div 2.

Indicative tender size

The EII Act⁸ establishes an overall objective for constructing firming infrastructure necessary to meet the EST⁹ and the Reliability Standard.

In preparing the [IIO Report \(2022\)](#) and setting the indicative tender size, the Consumer Trustee assessed the firming infrastructure necessary to meet this overall objective. It found that:

- 380 MW of firming infrastructure commissioned by December 2025 within the SNW sub-region was required to meet the EST.
- No additional firming infrastructure was required to meet the Reliability Standard.

In the long-term financial interest of NSW electricity customers, the Consumer Trustee may expand the indicative tender size for this Tender Round to meet the overall objective under the EII Act if, for example, market or regulatory changes occur.¹⁰

Proponents who are successfully registered will be notified via our online platform, should this occur.

⁸ EII Act, section 44(2)(c).

⁹ Identified in AEMO's Energy Security Target Monitor Report and outlined in the [IIO Report \(2022\)](#).

¹⁰ EII reg 26(3).



B. Important dates*

	Step	Date
	<i>Tender Announcement Date</i>	3 April 2023
	<i>Tender Commencement Date</i>	3 April 2023
	<i>Project Bid Closing Date and Time</i>	18 May 2023 at 5.00pm AEST
	<i>Invite to submit Financial Value Bid</i>	June 2023*
	<i>Financial Value Bid Closing Date</i>	July 2023*
	<i>Announce outcomes</i>	September 2023*

*Note: These dates are indicative. Final dates will be published on the AEMO Services [website](#) or notified as applicable via email to registered Proponents.



C. EST contribution factors

Guidance to Proponents

To enable Proponents to understand the maximum derating that may be applied to their Projects in the context of meeting the EST – Proponents will be able to calculate an indicative Project-specific EST contribution factor using the information in Table 1. The Project-specific EST contribution factor as determined by the Consumer Trustee, may impact the merit assessment of a Bid, see [Total Merit Score and Financial Value Shortlist](#).

The EST requires that firming infrastructure be capable of reaching the SNW sub-region during the evening peak in the summer of 2025/26. Due to this requirement, a Project's capacity when connecting to locations that are not forecast to be able to supply 100% of its output to SNW sub-region will be derated (the derating is referred to as the EST contribution factors).

EST contribution factors apply only to Firming Supply LTESA and only apply to this Tender Round. The Consumer Trustee acknowledges that firming infrastructure located in other parts of NSW can have a material, positive impact on NSW electricity customers.

EST contribution factor calculations

Firming supply infrastructure located within the SNW sub-region will have an EST contribution factor of 1 (i.e zero derating).

EST contribution factors will be calculated by:

- 1 Adding the Project's installed capacity of firming generation at its connection point;
- 2 Modelling the dispatch of the Project's generation into the network during EST conditions and measuring how much of its capacity reaches the SNW sub-region; and
- 3 Generating EST contribution factors for the Project by dividing the generator's contribution to the capacity of the SNW sub-region by the Project's installed capacity. If a binding thermal constraint exists before additional generation is added, then the Project's hosting capacity and EST contribution factor are effectively zero.

For example: If 150 MW of firming infrastructure at Wellington 330 kV delivers an increase of 142 MW across the Central New South Wales (CNSW) -SNW flow path, it results in a 0.95 EST contribution factor ($142/150=0.95$).

Application of EST contribution factors

The Consumer Trustee will apply EST contribution factors at the [Financial Value Assessment](#) stage. Proponents can submit information to support assessing and determining EST contribution factors as part of their [Project Bid](#), taking into account information in this Section C.

Proponents should note that an EST contribution factor of zero means that, under the EST scenario, a Project cannot contribute to the EST and is not encouraged to bid in this Tender Round.

The following principles will further govern the application of EST contribution factors to Projects:

- The final EST contribution factor applied to a Project will be a decision for the Consumer Trustee, supported by AEMO modelling. AEMO will undertake analysis by using power flow modelling that reflects the forecast network conditions used by AEMO to calculate the EST gap to support the Project specific EST contribution factor. It will include peak demand conditions and other network, load and market assumptions defined in the EST. The EST contribution factor applied to a Project will not be lower than the EST contribution factor (Table 1) for the Project's connection point and capacity.
- Where a Proponent considers the EST contribution factor in Table 1 is inappropriate for its Project, it may submit material for consideration as part of its [Project Bid](#). Materials may include how Projects connecting adjacent to existing coal generators may provide a more significant contribution to meeting the EST during these periods and participation in a System Integrity Protection Scheme (SIPS) (e.g. by dispatching during periods where the SIPS involving the Waratah Super Battery is operating).

The Consumer Trustee may consider submitted materials to support its decision but reserves the right to make a final decision at its absolute discretion.

Table 1 covers all relevant 500 kV and 330 kV connection points in the NSW region of the NEM. Where a Project is connected to the distribution network or its location is not identified in the table, AEMO will provide calculations of an EST contribution factor for the relevant Project to the Consumer Trustee.

Note: The calculation of the EST occurs during specific network conditions meaning the EST contribution factor should not be interpreted as a full locational assessment from perspective of technical curtailment, reduction to USE, or any other network quality metric. This type of more holistic assessment of a Project's location is carried out separately in the tender assessment process at Merit Criteria 1 and Merit Criteria 3.

Table 1: EST contribution factors¹¹

Connection point	EST contribution factor	
	Column A 150 MW Project	Column B 380 MW Project
Within SNW	1.00	1.00
Armidale 330 kV	0.86	0.56
Bannaby 330 kV	0.00	0.00
Bayswater 330 kV	0.94	0.79
Bayswater 500 kV	0.89	0.73
Bendeela 330 kV	0.00	0.00
Buronga 330 kV	0.00	0.00
Canberra 330 kV	0.00	0.00
Capital 330 kV	0.00	0.00
Coffs Harbour 330 kV	0.89	0.58
Collector 330 kV	0.00	0.00
Crookwell 330 kV	0.00	0.00
Darlington Point 330 kV	0.00	0.00
Dinawan 330 kV	0.00	0.00
Dumaresq 330 kV	0.00	0.00
Gullen Range 330 kV	0.00	0.00
Jindera 330 kV	0.00	0.00
Kangaroo Valley 330 kV	0.00	0.00
Liddell 330 kV	0.94	0.94
Lismore 330 kV	0.90	0.58
Lower Tumut 330 kV	0.00	0.00
Marulan 330 kV	0.00	0.00
Mt Piper 330 kV	0.77	0.30
Mt Piper 500 kV	0.87	0.44
Muswellbrook 330 kV	0.94	0.94
New England 330 kV	0.86	0.56
Ravine 330 kV	0.00	0.00
Sapphire 330 kV	0.00	0.00
Stockdill Drive 330 kV	0.00	0.00
Tamworth 330 kV	0.90	0.89
Upper Tumut 330 kV	0.00	0.00
Wagga 330 kV	0.00	0.00
Wallerawang 330 kV	0.95	0.94
Wellington 330 kV	0.95	0.94
Williamsdale 330 kV	0.00	0.00
Wollar 330 kV	0.94	0.93
Wollar 500 kV	0.90	0.90
Yass 330 kV	0.00	0.00

¹¹ The assumptions used for deriving the EST contribution factors can be found in [A1](#), unless otherwise noted by the Consumer Trustee.



D. How to use this guide: where to start

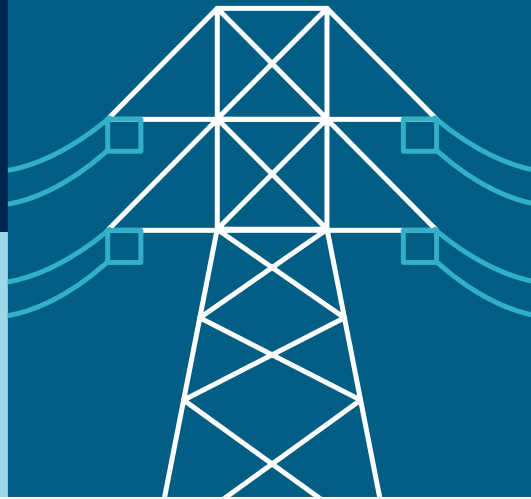
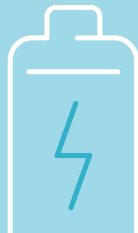
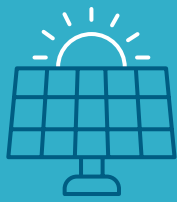
Tender step	Proponent requirements (including hyperlinks)	Assessment stage ¹²
Tender Commencement Date	<p>Register to participate in the Tender Round</p> <p>Proponent Eligibility Criteria Criteria to ensure that Proponents possess the requisite technical, financial, legal and commercial capabilities to deliver the Project.</p>	-
Project Bid	<p>Provide executed Tender Process Deed</p> <p>Project Eligibility Criteria Criteria to ensure that only Projects at an appropriate stage of development progress to assessment against the Merit Criteria.</p> <p>Project Merit Criteria</p> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 3 – Impact on electricity system </div> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 4 – Pathway to commercial operation </div> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 5 – Organisational capacity to deliver Project </div> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 6 – Community engagement, shared benefits and land use considerations </div> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 7 – Regional economic development </div> <div style="background-color: #00728f; color: white; padding: 5px;"> Merit Criteria 8 – Contribution to the reduction of scope 1 emissions in NSW </div>	Project Assessment
Financial Value Bid	<p>Provide Security for Process Bond</p> <p>Financial Value Merit Criteria</p> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 1 – Financial value </div> <div style="background-color: #00728f; color: white; padding: 5px;"> Merit Criteria 2 – Commercial departures </div>	<p>-</p> <p>Financial Value Assessment + Portfolio Assessment and due diligence including assessing:</p> <ul style="list-style-type: none"> - Long-term financial interests - Energy Security Target and Reliability Standard
Recommendations	-	The Consumer Trustee’s risk management and statutory compliance considerations
Award	-	SFV award Firming LTESAs

¹² All information provided by Proponents is assessed on an ongoing basis.



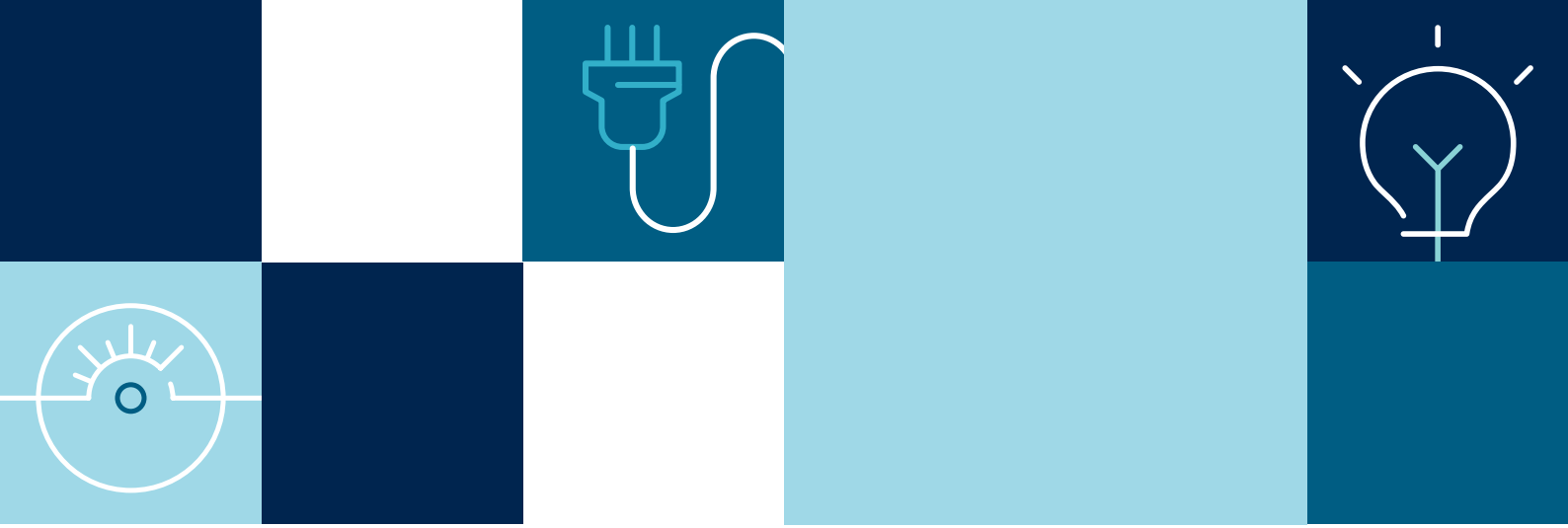
E. Tender Conditions

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



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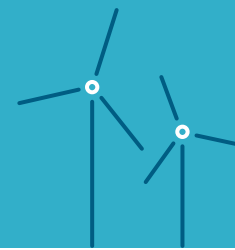
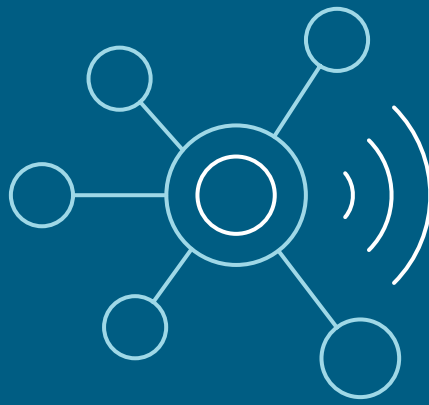
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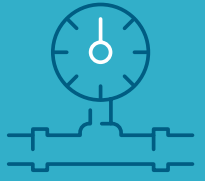
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Glossary

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1 Tender Guidelines

These Tender Guidelines (Guidelines) provide information to prospective Proponents planning to participate in this Tender Round 2 Firming Infrastructure, being a tender conducted under the EII Act.

These Guidelines will support Proponents in preparing high-quality and competitive Bids.

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](#) through its appointment as the NSW Consumer Trustee.

Central to this mandate is the duty to act independently and in the long-term financial interests of NSW electricity customers.¹³ This responsibility is at the core of everything AEMO Services does as the NSW Consumer Trustee.

In this capacity, we undertake coordinated planning of long-term investment, design and conduct competitive tenders under the EII Act to facilitate this investment, authorise REZ transmission infrastructure and provide financial risk management and advice.

AEMO Services' competitive tenders are directed to incentivise new investment in electricity generation, storage and firming infrastructure through LTESAs and network access rights in REZs.

1.2 About Tender Rounds

The tender process is designed to recommend quality Projects capable of delivering infrastructure that are in the long-term financial interests of NSW electricity customers.

Energy transformation in NSW

Our tenders are intended to support the energy transformation in NSW without getting in the way of what the market delivers best: innovation and drive to find new and better ways of delivering critical energy. Its competitive nature means that the market is expected to shape the mix of Projects supporting our legislated investment objectives.

Multiple Products available

Multiple Products may be available in each Tender Round. Two Products are available for this Tender Round: a Firming Supply LTESA and a Demand Response LTESA.

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 \(2022\)](#), 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 (2022).¹⁴ The frequency of Tender Rounds and forward schedule allows Proponents to choose when to Bid based on the maturity of their Projects and technology types. 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 NEM, and customer and market participant behaviour.¹⁵

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.

Certainty and transparency of process

The tender process is designed to provide certainty and transparency to Proponents in participating in the process. 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.

¹³ EII Act, s 60(3).

¹⁴ The EII Act requires that the Consumer Trustee prepare a report every two years (and more frequently in certain circumstances) about the Infrastructure Investment Objectives.

¹⁵ EII Regulation, reg 60(3).

1.3 Structure of this document

Section with hyperlink	Content
The Firming Infrastructure Tender Round	Provides specifications for this Tender Round, including the available Products, key items to consider, indicative tender size and tender dates.
Section 1: Tender Guidelines	Provides information about AEMO Services and firming infrastructure.
Section 2: Firming LTESA	Description of the two Products available in this Tender Round.
Section 3: Tender and assessment process	Describes the tender's steps and assessment processes from the Tender Commencement Date to the award of Firming LTESAs by the Scheme Financial Vehicle (SFV). Detailed instructions to Proponents on requirements to respond to the Eligibility and Merit Criteria (as prescribed in the Tender Rules).
Section 4: Assessment Criteria and Bid documentation	Includes the Eligibility Criteria and Merit Criteria plus details of information and evidence that Proponents must provide 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 entities under the NSW Electricity Infrastructure Roadmap, including AEMO Services as the Consumer Trustee, applicable legislation and regulatory landscape that govern the Tender Rounds.
Project Documents	Includes draft proforma Project Documents applicable to the Product.
Appendix: A1. EST contribution factor calculation assumptions	Information on the EST firming impact study and outline of the assumptions used to calculate the EST contribution factors.
Glossary	

2 Firming LTESA



This section outlines the commercial characteristics of the Firming LTESAs.

There are two Products available:

- **Firming Supply LTESA** – covers all eligible firming infrastructure except demand response. For example, batteries, electrolyzers or gas generators.
- **Demand Response LTESA** – covers eligible aggregated loads scheduled through the Wholesale Demand Response mechanism.

Key features of the Firming LTESA

- Provides revenue support for up to 10 years through a series of one-year options to receive an annuity payment.
- Flexible structure that supports different revenue strategies and financing structures.
- There is no upfront option premium to the LTES Operator, and upside revenue sharing is capped by Historical Net Payments.
- Projects will be assessed on their ability to reach commercial operations no later than 1 December 2025.

A Firming LTESA is a financial derivative contract between an LTES Operator and the SFV. The Firming LTESA provides an LTES Operator with up to ten one-year options to access an annuity payment. An LTES Operator can exercise or not exercise its options, subject to the minimum notice period. The annuity payment will top up the Project's Net Operational Revenues if the option is exercised. The annuity payment is capped at the Annuity Cap bid by the Proponent.

A repayment mechanism applies in certain circumstances and allows the SFV to recoup some of its previous payments when an LTES Operator earns net revenue beyond a threshold. The repayment is capped at 100% of Historical Net Payments from the SFV to the LTES Operator. Table 2 sets out the key commercial terms for Firming LTESAs.

Table 2: Key commercial terms

Term	Description
Contract term	The period over which options to enter Annuity Periods is available - commencing after the First Option Date.
Contracted Percentage (only applicable to Firming Supply LTESAs)	A Firming Supply LTESA may relate to some or all of the capacity of the Project. The Contracted Percentage is the percentage of a Project's total registered capacity that a Firming Supply LTESA relates to. For example, a Project with a registered capacity of 500MW may request an LTESA for 250MW by nominating a Contracted Percentage of 50%. The Contracted Percentage will apply to a Project's total Net Operational Revenue to determine the portion relevant for calculating the LTESA annuity payment.
Annuity Cap	The annuity amount (\$/year) submitted by the Proponent being the maximum annuity that the SFV may pay to the LTES Operator in a year.
Net Revenue Threshold	A Net Revenue Threshold (in \$/year) bid by the Proponent, above which additional provisions apply for the annuity payment and repayment mechanism.
Annuity Period	The fixed duration of the cash settled swap is one financial year, except if the Annuity Period extends beyond the Final Annuity Product End Date, in which case the Annuity Period ends on the Final Annuity Product End Date. Annuity Periods begin on 1 July and end on 30 June.
Exercise Notice period	Notice of exercise of an option must be provided at least 6 months, but not more than 12 months, before the beginning of an Annuity Period.
Net Operational Revenue	Intended to cover all revenue streams for the Project that the LTES Operator receives, netted off against permitted costs. This would include, but not limited to, gross revenue generated through the wholesale energy market, ancillary markets, system services, any future emerging markets and any other offtake contracts, minus certain costs, including the cost of purchasing energy to generate these revenues (where applicable). The Contracted Percentage will adjust the Net Operational Revenue for calculating the LTESA annuity payment.
LTESA annuity payment calculation	The annuity payments are calculated such that it equals the lesser of the: <ul style="list-style-type: none"> • Annuity Cap, or • $\text{Annuity Cap} - 75\% \times (\text{Net Operational Revenues} - (\text{Net Revenue Threshold} - \text{Annuity Cap}))$.

Term	Description
Repayment mechanism	<p>The repayment mechanism applies when the LTES Operator’s Net Operational Revenue exceeds its Net Revenue Threshold. The maximum an LTES Operator can be asked to repay is 100% of Historical Net Payments from SFV to LTES Operator.</p> <p>The repayment mechanism works as follows:</p> <ul style="list-style-type: none"> • Repayment applies to the amount of net operational revenue that exceeds the Net Revenue Threshold. • A fixed annual revenue sharing percentage of 50% applies to the repayment calculation
Performance Requirements	<p>This Tender Round aims to contribute to improving system reliability in NSW. Performance requirements provide economic incentives to LTES Operators to be available and dispatch electricity into the NSW system – both during times of system stress and throughout the year. Performance requirements apply to an LTES Operator under both a Firming Supply LTESA and a Demand Response LTESA, however, they are structured differently to account for the type of firming infrastructure.</p> <p>An LTES Operator under a Firming Supply LTESA (a “Firming Supply LTES Operator”), must meet certain performance requirements in order to receive the full annuity payment. This includes ensuring the firming infrastructure is available for at least 90% throughout the year and, in respect of certain firming infrastructure, must demonstrate a storage capacity above a certain threshold. Additionally, Firming Supply LTES Operators must respond to an actual lack of reserve condition (LOR) 3 event with a defined minimum bid.</p> <p>An LTES Operator under a Demand Response LTESA (a “Demand Response LTES Operator”), must respond to an actual lack of reserve condition (LOR) 1, 2 and 3 event with a defined minimum bid, provided that certain criteria are met. This includes the actual LOR event being preceded by a forecast LOR notice declared by AEMO at least 4 hours in advance and the start of the LOR event is at least 24 hours after the end of the last Trading Interval for which the Project was last dispatched in an LOR event. Additionally, Demand Response LTES Operators are not required to meet a minimum yearly availability performance requirement or yearly storage capacity performance requirement.</p>
Offset requirements	<p>LTES Operators that generate scope 1 emissions of greenhouse gas in NSW are required under legislation to procure and surrender offsets. Under the EII Regulation, for energy storage Projects charging from the NEM, the firming infrastructure emissions intensity is taken to be zero.</p>

Project Development Agreement (PDA)

The award of a Firming Supply LTESA is conditional upon entry into and compliance with a (PDA). The PDA includes obligations on the LTES Operator to achieve Financial Close and construct and commission the Project. The relevant provisions will be included in the Firming Supply LTESA.

Offset contribution to scope 1 emissions

Under the EII Regulation and as required by the relevant Firming LTESA terms, LTES Operators are required to comply with certain offset requirements regarding the offset of scope 1 emissions of greenhouse gases from firming infrastructure.¹⁶

The threshold and quantum of offset units correspond to the calculation of a yearly emissions intensity for firming infrastructure in the context of emissions intensity for all generation facilities in NSW. Unless otherwise determined by the Minister, these calculations are to be determined and published by the regulator, being the Environment Protection Authority.¹⁷

The Consumer Trustee understands that the emissions intensity of a battery energy storage system will be zero for the emissions intensity offset obligations. Consequently, the regulatory offset regime does not apply to these Projects. This may similarly apply to other energy storage firming infrastructure depending on their technology type.

In addition to these LTESA requirements relating to offsetting of scope 1 emissions, the EII Regulation requires the Consumer Trustee to consider a Project's contribution to the reduction of scope 1 emissions in the NSW electricity sector. This assessment is undertaken through Merit Criteria 8. [Merit Criteria 8](#) seeks to support Projects contributing to NSW government emissions reduction policy. In contrast, the LTESA requirement for offsets ensures that emissions resulting from a Project are offset appropriately.

¹⁶ See EII Regulation, Part 12.

¹⁷ EII Act, s 64(1)(c); EII Regulation, reg 41A.



3 Tender and assessment process

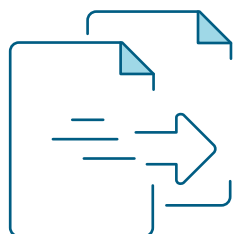
This section outlines the tender and assessment process that applies to all Proponents.

The Consumer Trustee may vary this process, including cancelling the tender, where the Consumer Trustee considers this necessary to meet NSW electricity customers' long-term financial interests.

Proponents and Projects for each Tender Round must 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.



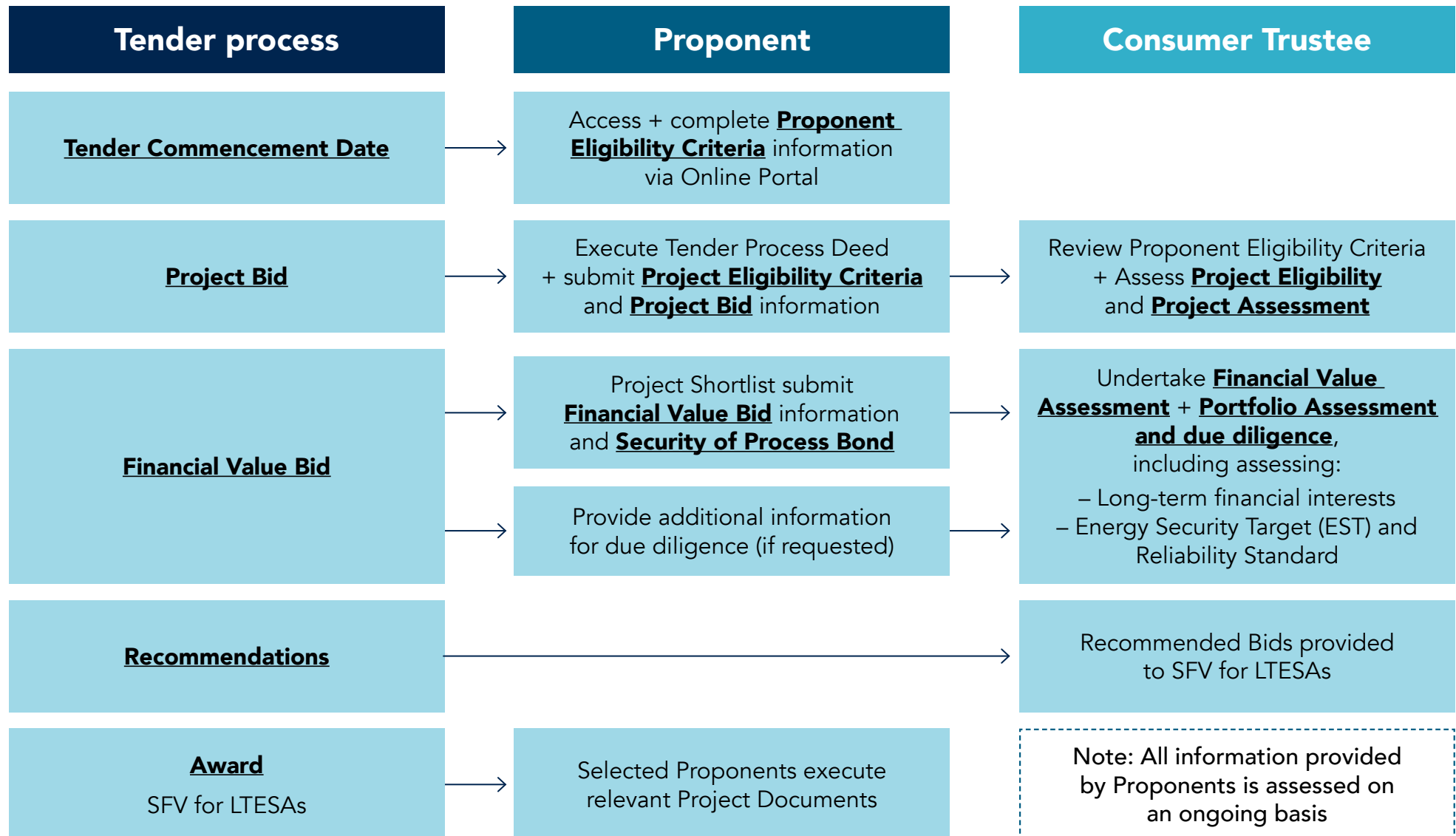
The Online Portal will store the information submitted by Proponents and their Projects. This information will be accessible by the Proponents for future Tender Rounds. Proponents can access their previous submissions through the Online Portal, use this information as a reference, and make any necessary changes for future Tender Rounds. This will make the participation process easier and less time-consuming.¹⁸

¹⁸ To manage data risk, Proponents may request for their information to be removed from the Online Portal if they do not intend to participate in future Tender Rounds.

Figure 1: Overview of the tender process



Select relevant step to learn more



3.1 Tender process

3.1.1 Submission of Bids and documents

From the [Tender Commencement Date](#), Proponents will receive access to the registration form and [Proponent Eligibility Criteria](#). Successfully registered 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 are 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 must 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.

Proponents should read [Section 5.19](#) in order to complete and execute the Tender Process Deed. If a submitted Tender Process Deed is incomplete or not properly executed, the Consumer Trustee may assess the Bid as Non-Compliant. Non-Compliant Bids may not be considered further, at the Consumer Trustee's discretion.

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 calculated as \$4,000/MW, capped at \$800,000 per Project. The MW used for calculating the Security for Process Bond is the Project's intended Maximum Capacity, and in the case of a Firming Supply LTESA, multiplied by the Contracted Percentage. If there is more than one Bid Variable submitted as part of the Bid:

- for Maximum Capacity, for both a Firming Supply LTESA and a Demand Response LTESA; and/or
- for Contracted Percentage, for a Firming Supply LTESA,

the Process Bond Amount (as defined in the Tender Process Deed) will be calculated on the basis of the greatest value for the relevant Bid Variables 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 of 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 or LTESA (as applicable) within five (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 relevant Project Documents.

Q&A Process

The Consumer Trustee will operate a limited online question-and-answer process to facilitate the Tender Round. Proponents may submit clarification questions to the Consumer Trustee no later than seven (7) Business Days before the corresponding:

- [Project Bid Closing Date and Time](#) (during Project Bid preparation).
- [Financial Value Bid Closing Date and Time](#) (during Financial Value Bid preparation).

Proponents should prepare any questions in a manner that does not disclose sensitive or confidential information. The Consumer Trustee will aim to respond within five (5) Business Days (subject to the number, materiality and complexity of questions received) and to share de-identified questions and clarifications with all Proponents.

Please note that the Consumer Trustee:

- is under no obligation to answer any question, and the [Tender Conditions](#) will govern any responses.
- 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. For example, 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 guidance notes or legal documentation (e.g. Project Documents) 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 the required information, this must be stated in the Bid and the reasons given.

If the required information is incomplete or 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. Equally, if required documentation is incomplete, not properly executed (in the case of a deed/agreement), or is provided in a format inconsistent with the requirements of these Guidelines and the Tender Process Deed, the Consumer Trustee 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.

EnergyCo may provide the Consumer Trustee with technical input as a subject matter expert on matters related to Merit Criteria and Portfolio Assessment for Proponents located within a declared REZ geographical boundary.

As NSW transmission planner, TransGrid, may provide input on a Project's expected network impacts. AEMO may also provide input as the system operator.

The Consumer Trustee will engage with, and share Proponent information 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 Tender Round Announcement







The Consumer Trustee will notify the market of an upcoming Tender Round and when it will commence via the Consumer Trustee’s [website](#).

Tender step	Proponent requirements
Tender Commencement Date	<p>Register to participate in the Tender Round</p> <p>Proponent Eligibility Criteria</p> <p>Criteria to ensure that Proponent possesses the requisite technical, financial, legal and commercial capabilities to deliver the Project.</p>

3.1.3 Project Bid

From the [Tender Commencement Date](#), Proponents will receive access to the registration form and Proponent Eligibility Criteria. Upon successfully submitting the registration form, access will be granted to Project Bid forms and Returnable Schedules needed to complete their Project Bids via the Online Portal.

Proponents must also submit an executed [Tender Process Deed](#) with their Project Bid – Proponents should read [Section 5.19](#) in order to complete and execute the Tender Process Deed.

Tender step	Proponent requirements
Project Bid	<p>Tender Process Deed</p> <p>Project Eligibility Criteria</p> <p>Criteria to ensure that only Projects at an appropriate stage of development progress to assessment against the Merit Criteria.</p> <p>Project Merit Criteria</p>
	 <p>Merit Criteria 3 – Impact on the 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 – Community engagement, shared benefits and land use considerations</p>
	 <p>Merit Criteria 7 – Regional economic development</p>
	 <p>Merit Criteria 8 – Reduction in scope 1 emissions of greenhouse gas</p>



3.1.4 Project Assessment

Project Assessment applies to all compliant Project Bids, irrespective of the Product the Proponent selects. Its purpose is to select a shortlist of Project Bids (Project Shortlist) to progress to the Financial Value Bid stage. All information provided by Proponents is assessed on an ongoing basis.

Review Proponent Eligibility Criteria and assess Project Eligibility Criteria

- The Project Eligibility Criteria are designed to ensure that only Project Bids at an appropriate stage of development are assessed for merit. Projects that do not meet all [Eligibility Criteria](#) may cease to be further considered by the Consumer Trustee.¹⁹
- All Proponents must provide information to satisfy the Eligibility Criteria. Proponents not meeting all Eligibility Criteria may cease to be further considered by the Consumer Trustee.²⁰

Assess Project Merit Criteria



- Project Bids are assessed and scored against the [Project Merit Criteria](#).
- Low scoring Project Bids against any Project Merit Criteria may not be assessed further and may not be shortlisted for progression to the Financial Value Bid stage.
- High scoring Project Bids (Project Shortlist) may be invited to progress to the [Financial Value Bid](#) stage.

¹⁹ The Consumer Trustee may make exceptions where, in its absolute discretion, it considers that there are grounds for the Project to be considered further by the Consumer Trustee – see Tender Rules 3.1.1.

²⁰ The Consumer Trustee may make exceptions where, in its absolute discretion, it considers that there are grounds for the Project to be considered further by the Consumer Trustee – see Tender Rules 3.1.2.

3.1.5 Financial Value Bid and Alternative Financial Value Bid

The Project Shortlist will receive an invitation to submit a Financial Value Bid with the relevant Returnable Schedules. Alternative Financial Value Bids will be assessed against the same [Financial Value Merit Criteria](#). All information provided by Proponents is assessed on an ongoing basis.

Step	Information to complete (including hyperlink)
Financial Value Bid	 Merit Criteria 1 – Financial value
	 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](#).
- Include completed Returnable Schedules and marked-up or compare Project Documents.
- Include the [Security for Process Bond](#).

Alternative Financial Value Bids

Proponents may also submit one Alternative Financial Value Bid. An Alternative Financial Value Bid is in addition to the Default Financial Value Bid without additional [Security for Process Bond](#) requirements.

The Alternative Financial Value Bid may differ from the Default Financial Value Bid by proposing different [Bid Variables](#). Alternative Financial Value Bids will be assessed against the same [Financial Value Merit Criteria](#).

Proponents must submit their Alternative Financial Value Bid using a separate set of Returnable Schedules for Merit Criteria 1 and Merit Criteria 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 some 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 assessment stage will be notified of the conditions and timeframe to prepare their Alternative Financial Value Bids.

Merit Criteria 2 – Commercial departures

Proponents are strongly encouraged not to amend the Project Documents materially. However, where a Proponent proposes departures to any Project Documents, the Proponent must submit a:

- Completed departure table (Returnable Schedule), including the reason for requesting each departure.
- Marked-up version or compare version of the relevant [Project Documents](#) with their proposed changes in a form ready for acceptance.
- Clean versions of the [Project Documents](#) in a form that they are ready for execution by the Proponent (i.e. requiring no further changes, including parties' details and execution clause) and capable of acceptance.

Financial Value Bids: Default and Alternative

The table below sets out the key commercial terms and Bid Variables to be submitted for a compliant Default Financial Value Bid and Alternative Financial Value Bid, irrespective of the selected Product.

The Alternative Financial Value Bid enables Proponents in this Tender Round to submit one additional Bid with varying Bid Variables – meaning a single Alternative Financial Value Bid is in addition to the Default Financial Value. For example, this can occur through setting a different Annuity Cap and Net Revenue Threshold, providing a shorter contract term or forfeiting options in the Alternative Financial Value Bid. They are designed to allow Proponents flexibility in providing two sets of Bid Variables that offer value differently. Proponents may also use this flexibility to reflect better how contracting, and financing arrangements changes will affect the required Annuity Cap in specific periods within the Firming LTESA term.

Key commercial terms and Bid Variables for Default and Alternative Financial Value Bids	
Option terms	
Contract term	Bid Variable Up to a maximum of 10 years
Contracted Percentage	Bid Variable
Exercise notice period	Min 6 months before Option Period
Net Revenue Threshold	Bid Variable Provided as a schedule of Net Revenue Thresholds that vary from the relevant Annuity Period start date in fixed nominal dollars over the nominated contract term.
Annuity terms (if option is exercised)	
Annuity Period	1 year or the period ending on the Final Annuity Product End Date
Maximum Capacity	Bid Variable Projects affected by storage degradation are able (and encouraged) to provide a capacity degradation pathway over the contract term as part of this Bid Variable.
Annuity Cap	Bid Variable Provided as a schedule of Annuity Caps that vary from the relevant Annuity Period start date in fixed nominal dollars over the nominated contract term.

3.1.6 Financial Value Assessment

Financial value is the primary consideration for the Consumer Trustee when assessing Financial Value Bids.²¹

The Financial Value Assessment of all Financial Value Bids is against Merit Criteria 1 and 2, including Alternative Financial Value Bids.

Assess Merit Criteria 1

[Merit Criteria 1](#) is assessed using the Bid Variables and the Project information submitted by Proponents.

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

- 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.²²

[Section 4.2.2](#) Merit Criteria 1 outlines how the Consumer Trustee will assess these Bid aspects, including contribution to meeting the Reliability Standard.

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

- Electricity market outcomes.
- LTESA exercise behaviour.
- Weather reference years.
- Other considerations (e.g. LGC price outcomes).

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 is 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.

Assess Merit Criteria 2

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

Financial Value Bids with no requested departures from the proforma Project Documents are expected to score the highest against Merit Criteria 2, 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 preferred Bid between those two Bids being considered when developing the Financial Value Shortlist.

Total Merit Score and Financial Value Shortlist

A Total Merit Score will be determined for each Bid based on the total weighted score of all Merit Criteria.

The Total Merit Score may be adjusted for the Project-specific [EST contribution factor](#). These factors may be used to adjust the Total Merit Score of each Project, where it is in the long-term financial interests of NSW electricity customers (having regard to the assessment as a whole, of which financial value is the primary consideration).

A Financial Value Shortlist will be developed and ranked based on the Total Merit Score after any adjustments, in accordance with the objectives and requirements of the EII Act and EII Regulation. The initial Financial Value Shortlist 'cut-off' will be determined based on factors including:

- Size guidance in the [IIO Report \(2022\)](#) accounting for EST contribution factors.
- Requirements of the [Risk Management Framework](#).

²¹ In accordance with section 48(2) of the EII Act.

²² EII Regulation, Reg 26(4).

3.1.7 Portfolio Assessment and due diligence

The Consumer Trustee will develop a Portfolio Shortlist after assessing the cumulative impacts that may arise in consideration of the Financial Value Shortlist to mitigate any aggregated adverse effects that may arise from the Financial Value Shortlist.

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

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

For transparency, Table 3 outlines the portfolio-level adverse outcomes and how they may be considered in the Portfolio Assessment.

Table 3: How identified issues may be considered during Portfolio Assessment

Issue	Where this may impact a Financial Value Shortlisted Project	How this may be considered (at the Consumer Trustee's discretion)
Supplier concentration risk	Where multiple shortlisted Projects are proposing to use the same contractors or original equipment manufacturers.	This risk assessment determines whether a supplier can meet its commitments to multiple successful Projects. The Consumer Trustee may seek more information to address aggregate supplier capacity effects and may not recommend one or more Bids to avoid supplier concentration risk.
Counterparty concentration risk	Where several shortlisted Projects are proposed by the same Proponent, creating a material counterparty risk as determined by the Consumer Trustee.	The Consumer Trustee may limit the number of Bids a Proponent can put forward in each Tender Round. In addition, the Portfolio Assessment may consider aggregated risks associated with multiple contracts with a single counterparty, including related entities. It is a risk assessment to determine whether a single Proponent can deliver multiple successful Projects.
Other adverse effects	Where a shortlisted Project has a material detrimental effect on other shortlisted Projects, as determined by the Consumer Trustee.	The Consumer Trustee will retain discretion to rule out Projects with material adverse impacts on other shortlisted Projects.

3.2 Consumer Trustee recommendation

The Consumer Trustee²³ 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.²⁴

In making recommendations to the SFV,²⁵ the Consumer Trustee may be advised by and consider input from specialists and advisers (internal and external to the Consumer Trustee).

3.3 Award and contracting

The Consumer Trustee will provide Recommended Bids to the [SFV](#).

Selected Proponents will execute the relevant [Project Documents](#) with the SFV as counterparty to the Project Documents.

All unsuccessful Proponents are notified and, at the Consumer Trustee's discretion, given an opportunity for feedback within probity considerations, in accordance with [section 5.37](#) of these Guidelines.



²³ Being the board of AEMO Services Limited, as the appointed Consumer Trustee.

²⁴ For example, under EII Act, section 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)).

²⁵ The SFV on approval from the SFV Board is the counterparty to the LTESA.



4 Assessment Criteria and Bid documentation

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

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



Proponents should ensure all the supporting documentation requested is submitted in response to each Eligibility Criteria and Merit Criteria. The Consumer Trustee will only assess the information submitted as part of their Bid. Returnable Schedules will be provided to Proponents for populating where specified.

4.1 Eligibility Criteria (EC)

4.1.1 Proponent Eligibility Criteria

The requirements for the Proponent Eligibility Criteria are listed in Table 4. Proponents must propose one Bid Entity (EC16). Where such Bid Entity is not the Proponent, the Proponent must also provide equivalent information demonstrating that the Bid Entity also meets (or, when established, will meet) the Proponent Eligibility Criteria (other than EC16).²⁶

Proponents that do not meet all Proponent Eligibility Criteria (including their Bid Entity, if applicable) may cease to be further considered by the Consumer Trustee. The Consumer Trustee may make exceptions to the application of the Proponent Eligibility Criteria where, in its absolute discretion, it considers that there are grounds for the Project to be considered further.

Table 4: Proponent Eligibility Criteria

Item	Criteria
EC14	<p>The Proponent, and the Bid Entity (if different to 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>Proponent must not have had a judicial decision relating to employee entitlements made against it (not including decisions under appeal), where the Proponent has failed to pay any amounts required to be paid following that judicial decision.</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 (including 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>

²⁶ Where the Bid Entity is not the Proponent, and will be a newly-incorporated Australian wholly-owned special purpose vehicle, it is expected that the Proponent will satisfy the Proponent Eligibility Criteria for that entity by providing information in relation to ECs 15, 17, 19 and 22 only.

4.1.2 Project Eligibility Criteria

Requirements for Projects to meet the Project Eligibility Criteria are listed in Table 5. Where a Product (listed in the last two columns) has a tick against a Project Eligibility Criteria (shown in EC labelled rows), Proponents must provide information in their Project Bid to demonstrate that their Project meets the listed criteria.

Projects that do not meet all applicable Project Eligibility Criteria may cease to be further considered by the Consumer Trustee. The Consumer Trustee may make exceptions to the application of the Project Eligibility Criteria where, in its absolute discretion, it considers that there are grounds for the Project being further considered by the Consumer Trustee. Where the Consumer Trustee considers it is infeasible or impractical to apply any of the Project Eligibility Criteria to a particular Product or type of technology in a specific Tender Round, the Tender Guidelines may modify or disapply the application of the relevant criteria.

Table 5: Project Eligibility criteria

Note: Project Eligibility Criteria with no ticks against them (i.e. EC1, EC2 and EC4) have been disapplied for this Tender Round, in accordance with section 3.1.1 of the Tender Rules.

Item	Project Eligibility Criteria	Firming Supply LTESA	Demand Response LTESA
EC1	Project must involve generation from a renewable energy source.	-	-
EC2	Project must have a generation capacity of not less than 30 MW.	-	-
EC3	Project has not previously been awarded an LTESA, or Access Right. ²⁷	✓	✓
EC4	Project consists of storage units with registered capacity that can be dispatched for at least eight hours.	-	-
EC5	The Project is registered, or must state in its application that it intends to register, with AEMO for the central dispatch process under the NER in relation to the NSW region of the NEM.	✓	✓ ²⁸
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. ²⁹	✓	-
EC8	Projects must be in receipt of a connection agreement or a network service provider response to a connection enquiry. ³⁰	✓	-
EC9	Project must submit a Community Engagement Plan , which will become contractually binding upon award.	✓	-

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²⁷ 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, reg 28(1)(b), (2) and (3).

²⁸ For demand response-based Projects, registration as a 'Demand Response Service Provider' (as defined in the NER) is required.

²⁹ The Consumer Trustee understands that Projects that have significant development planning approvals may have formal documentation from relevant planning authorities that supersede the SEARS document. Evidence of these documents may be sufficient to satisfy EC7.

³⁰ The Consumer Trustee understands that Projects seeking to amend an existing connection do not require a CER and thus will not be able to provide a CER. In order to satisfy EC8, the Consumer Trustee expects that Proponents who may seek to rely on a modification to an existing connection agreement should produce evidence that the Consumer Trustee could consider equivalent to a CER.

Table 5: Project Eligibility criteria

Item	Project Eligibility Criteria	Firming Supply LTESA	Demand Response LTESA
EC10	<p>The Project is not in receipt of financial support in the form of project capital support, periodic payments or revenue underwriting from State or Commonwealth government (Government Support).</p> <p>For this Tender Round, Government Support does not include:</p> <ul style="list-style-type: none"> • non-concessional funding provided by the CEFC; • certificates accruing to the Project that is also available to projects beyond the specific Project in question (e.g. LCGs/STCs/ESCs, PRCs, ACCUs); • funding that was provided solely to progress the feasibility of a Project during its development phase (e.g. certain ARENA funding, pumped hydro recoverable grants); • ARENA via the Large Scale Battery Storage Funding Round; • payments for services awarded or appointed by EnergyCo in relation to REZs, network infrastructure projects, or priority transmission infrastructure projects. 	✓	✓
EC11	<p>The Project must not be impacted by an order served on a relevant operator prohibiting connection to the relevant network infrastructure, under EII Act, section 29.</p>	✓	✓
EC12	<p>Project must not use (as applicable):</p> <ul style="list-style-type: none"> • for generation infrastructure, generation from wood waste from timber native to Australia; and • for firming infrastructure, generation from biomass from timber native to Australia.³¹ 	✓	✓
EC13	<p>The Project must be able to dispatch its proposed registered capacity for a minimum specified duration.</p> <p>In accordance with 3.1.1 of the Tender Rules, for this Tender Round, the relevant minimum duration is specified in these Tender Guidelines to be approximately 2 hours.</p>	✓	✓

³¹ EII Regulation, regs 28(2A), (2B). See also EII Regulation, reg 29(4).

4.2 Merit Criteria (MC)

Proponents will be assessed against the Merit Criteria in Sections 4.2.1 and 4.2.2.

4.2.1 Project Merit Criteria

This section describes the Project Merit Criteria. Proponents must demonstrate and provide evidence of their Project's merit by completing the Project Bid online form and submitting information through attachments listed in the second "What is required" column. Proponents may submit additional information to support their Bid at their discretion. This information may support the Consumer Trustee's Merit Criteria assessment.

Treatment of future commitments related to social licence

[MC6 – Community engagement, shared benefits and land use considerations](#) and [MC7 – Regional economic development encompasses social licence commitments](#). These commitments will become binding and subject to contractual monitoring and enforcement regimes under the relevant [Project Documents](#).

It is recognised that some types of firming infrastructure will have a lower impact on host communities than other types of energy infrastructure, and for demand response there is expected to be no community impact. Similarly, opportunities for regional economic development will vary across Project and technology types. Proponents are encouraged to assess Project specific factors when making a Bid. For example, Projects with a significant impact on host communities will be expected to provide more comprehensive responses. Projects with no impact can scale back information provided.

For Firming Supply LTESA

Proponents are required to complete and submit the Returnable Schedules at the Project Bid stage.

MC6 – Returnable Schedule: Proponents should clearly identify any potential adverse impacts on communities and commitments made should be tailored to offset these impacts and improve outcomes for the communities in which they will operate.

MC7 – Returnable Schedule: Regional economic development: Commitments made should be tailored to the Project characteristics.

For Demand Response LTESA

It is recognised that all the details required in the Returnable Schedules may not apply to all Demand Response Projects.

MC6 – Returnable Schedule: Where these requirements are not relevant, Project Bids are not required to include a completed Returnable Schedule for Merit Criteria 6.

Project Bids that identify and commit to initiatives or programs that support the policy intent of Merit Criteria 6 will be assessed more favourably. For commitments to be considered in the assessment, the details should be provided in the relevant Returnable Schedule and commitments made will be binding and subject to contractual monitoring and enforcement regimes under the relevant Project Documents.

MC7 – Returnable Schedule: Demand Response Projects should note that it is still a requirement to complete and submit Table 2 – Employment and Workforce commitments of the MC7 – Returnable Schedule.



MC3 – Impact on the electricity system

Scope: the impact of the Project on the operation of the NSW electricity system, including impacts on other Projects connected or expecting to connect before the Project, or impact on a planned REZ.

It intends to:

- Ensure the Project is providing additional value to the system.
- Encourage Proponents to make locational and design decisions that minimise negative impacts on existing generators.

What is assessed	What is required	What we are looking for
<p>Impact on the electricity system</p> <p>The quality of the Project’s network connection location, connection method and technology type is assessed to understand the Project’s impact on the NSW electricity system, including:</p> <ul style="list-style-type: none"> • The extent to which the Project provides additional value to the NSW electricity system and potential impact on technical curtailment of nearby large-scale generators. • Each Project’s cumulative impact on other generators in the NSW electricity system over 30MW. <p><i>Note: This is separate from the Project contributing to the EST</i></p>	<p>Firming Supply LTESA</p> <ul style="list-style-type: none"> • Project transmission connection point (nearest transmission substation) and voltage level, connection type (e.g. simple tee, loop in loop out) • For storage technologies (e.g. battery energy storage system): <ul style="list-style-type: none"> – Project storage capacity – Depth of discharge limit (% of storage capacity) – Project round-trip efficiency (%). • For thermal technologies (e.g. gas fired generation, liquid fuels) <ul style="list-style-type: none"> – Fuel type and cost (\$/GJ) – Annual fixed operation and maintenance costs (\$/kW/annum) – Heat rate (GJ/MWh) – Emissions (kg CO_{2e}/MWh sent out) – Auxillary load (% of Maximum Capacity) • Project Single Line Diagram. • Any features or characteristics of the Project (e.g. grid forming inverters) or associated planned works that could provide essential system services and/or contribute to system strength. 	<p>Demonstration of the Project providing additional value to the NSW electricity system while having minimal negative impacts on existing generators. This may include either or a combination of the following:</p> <ul style="list-style-type: none"> • A reduction of technical curtailment of other NSW generators • An increase in surrounding generators’ MLFs • Other system efficiency measures in planning or dispatch horizon increased due to the Project’s network connection location. <p>Demonstration of the Project’s ability to provide essential system services and/or contribute to system strength.</p>

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What is assessed	What is required	What we are looking for
<p>Impact on the electricity system (continued)</p>	<p>Demand Response LTESA</p> <ul style="list-style-type: none"> • Project’s expected number of Demand Response Service Units (DRSUs) to meet the Project’s guaranteed capacity and the proportion of different response technologies used to reduce demand in the Project. • Project’s expected average maximum response component in reference to the portfolio’s total load (i.e. the Project’s proportion of its total load to its total export capacity; e.g. 50MW total portfolio load with 10MW export capacity). • DRSU bid prices (up to 10 price/quantity pairs at which the scheduled load would be prepared to turn down or off). • Any features or characteristics of the Project (e.g. grid forming inverters) or associated planned works that could provide essential system services and/or contribute to system strength. • Any other relevant formal Project documents associated with registering units with AEMO. 	<p>Demonstration of the Project providing additional value to the NSW electricity system while having minimal negative impacts on existing generators. This may include either or a combination of the following:</p> <ul style="list-style-type: none"> • A reduction of technical curtailment of other NSW generators • An increase in surrounding generators’ MLFs • Other system efficiency measures in planning or dispatch horizon increased due to the Project’s network connection location. <p>Demonstration of the Project’s ability to provide essential system services and/or contribute to system strength.</p>



MC4 – Pathway to commercial operation

Scope: the credibility of pathway to reaching Commercial Operations Date (COD) no later than 1 December 2025, considering risks to Project completion. Selected Proponents will have the target Financial Close, COD and other key dates scheduled as milestones in the relevant Project Document(s).

Note: Proponent’s target (or actual, if applicable) Financial Close and COD should be consistent in their Project Bid and Financial Value Bid.

What is assessed	What is required	What we are looking for
Firming Supply LTESA		
<p>Proponents must demonstrate:</p> <ul style="list-style-type: none"> ability to reach COD no later than 1 December 2025 	<p>Pathway to financing and operations:</p> <ul style="list-style-type: none"> A Project development plan and schedule, including a financing plan, revenue strategy, revenue contracting plan, and a Project risk register. Evidence of financing progress (e.g. internal approvals, corporate capacity to fund the Project, letters of support, term sheets and/or correspondence from debt or equity financiers to the Proponent). Proponents intending to utilise equity financing or corporate level debt facilities may provide details on the current availability of such facilities and the level of organisational endorsement and/or approvals for using such facilities concerning the Project. Evidence of progress towards finalising construction and equipment supplier contracts, such as: <ul style="list-style-type: none"> EPC and O&M contractor engagement (e.g. correspondence, term sheet, early works contracts) technical design summaries; and/or activities relating to procurement and construction of the Project 	<p>Pathway to financing and operations:</p> <ul style="list-style-type: none"> Demonstration of a clear pathway to achieving Financial Close in the near term; or Financial Close has been achieved. Demonstrates a clear and feasible pathway to commercial operations by 1 December 2025. Demonstrates a clear understanding of Project risks associated with reaching COD and identifies appropriate mitigants to resolve or reduce the associated risks. Executed Project agreements (Construction contracts); or evidence of a pathway to executing agreements soon.

Continued on next page

What is assessed	What is required	What we are looking for
Firming Supply LTESA		
	<p>Pathway to approvals, network connection, and registration:</p> <ul style="list-style-type: none"> • Site map of the Project, including Project site and all relevant easements, with cadastral ID, and Proponent land tenure rights, infrastructure and/or construction needs. • Development Approval documentation (e.g. lodgement, notification, decision notice). • Evidence of connection approval progress. • Foreign Investment Review Board (FIRB) approval progress, requirements and/or any foreign ownership interests. 	<p>Pathway to approvals, connection, and registration</p> <ul style="list-style-type: none"> • Land option agreements and/or land leases executed, including connection route. • If applicable, NSW planning approval received with accurate/ final requirement of biodiversity offsets and EPBC approval. • Evidence of an offer to connect/executed connection agreements. • All other relevant planning and regulatory approvals secured, or a clear pathway to obtaining them shortly (including FIRB, if required).
Demand Response LTESA		
<p>Proponents must demonstrate their:</p> <ul style="list-style-type: none"> • ability to reach COD no later than 1 December 2025 • progress towards securing their proposed customer base within the SNW sub-region to form a demand response portfolio 	<p>Pathway to financing and operations:</p> <ul style="list-style-type: none"> • Evidence of how the demand response portfolio will achieve COD (e.g. timeline setting out customer engagement, contracting, installation and asset baselining approval from AEMO). • Evidence of customer base to form a demand response portfolio within the SNW sub-region (e.g. correspondence, MOU, term sheets) and ability to maintain portfolio throughout the entire proposed LTESA term bid (e.g. any expected customer churn, ability to replace failing or lost customers, length of contract with customers). • Project risk register. <p>Pathway to approvals, network connection, and registration:</p> <ul style="list-style-type: none"> • Evidence of engagement with AEMO for registration, or intent to register, as a Demand Response Service Provider (e.g. formal or informal correspondence with AEMO). • Evidence of progressing Demand Response Service Unit(s) baseline methodology submission and approval with AEMO (e.g. formal or informal correspondence with AEMO). 	<p>Pathway to financing and operations:</p> <ul style="list-style-type: none"> • Demonstration of a clear pathway to achieving Financial Close in the near term; or Financial Close has been achieved. • Demonstrates a clear and feasible pathway to commercial operations by 1 December 2025. • Demonstrates a clear understanding of project risks associated with reaching COD and identifies appropriate mitigants to resolve or reduce the risks. • Evidence of a secured customer base, strategy to deliver the demand response portfolio and maintain the portfolio/ customer base through the proposed LTESA contract term. <p>Pathway to approvals, connection, and registration:</p> <ul style="list-style-type: none"> • Registered with AEMO as a Demand Response Service Provider; or significant progress in achieving registration. • Demonstration of clear understanding of how to progress Demand Response Service Units through required AEMO approval processes.



MC5 – Organisational capacity to deliver Project

Scope: the capacity, capability and track record of the Proponent and other relevant entities involved in the Project to deliver the Project. The information below applies to both Firming Supply LTESAs and Demand Response LTESAs.

What is assessed	What is required	What we are looking for
Organisational capacity to deliver Project	<ul style="list-style-type: none">• Credentials and capabilities of the Proponent and the Project partners, including a list of the Proponent's relevant projects delivered and/or operated in the last five years.• Procurement strategy, approach, and status for key resources, delivery partners, and advisors required to deliver the project.• Project-delivery contracting structure and/or commercial delivery model in diagrammatic representation and purpose of the structure.	<ul style="list-style-type: none">• Proponent demonstrates a detailed and thorough understanding of procurement, including key sources and delivery partners/ advisors required to deliver the project, and detail into the availability of these resources and a strategy for procuring these, if not already procured.• Proponent and delivery partners demonstrate a track record in delivering comparable energy generation and/or storage and/or wholesale demand response Projects (e.g. case studies of comparable projects, list/summary of previous projects delivered).



MC6 – Community engagement, shared benefits and land use considerations

Scope: evidence to demonstrate a clear understanding of any impacts of the Project on the community plus a tailored approach to minimise and offset any impacts of the relevant electricity infrastructure on affected communities, through:

- Engagement with local communities and stakeholders that is generally consistent with applicable NSW Government guidelines to foster local community support.
- Financial benefits sharing during construction and operation with local communities and stakeholders.
- Improvement in land use, considering any environmental constraints and opportunities in the site selection process, that is generally consistent with applicable NSW Government guidelines
- Adopting best practices in community and First Nations engagement strategies appropriate to the scope of the Project. This should consider region-specific [First Nations Guidelines](#) and relevant industry documents such as the 'Clean Energy Council: A guide to benefit sharing options for renewable energy projects'.

Proponents should also refer to the call out box '[Treatment of future commitments related to social licence](#)'.

What is assessed	What is required	What we are looking for
Firming Supply LTESA		
<ul style="list-style-type: none"> Consistent with EC9, all Bids for Firming Supply LTESAs must submit the completed MC6 Returnable Schedule – Community Engagement Plan (CEP) detailing commitments to share benefits with local communities and identify and implement land use benefits where appropriate. The schedule includes confirmation of commitments the Proponent makes as part of the local council and/or State Voluntary Planning Agreement and commitments above and beyond planning requirements. 	<ul style="list-style-type: none"> Understanding and evidence of: <ul style="list-style-type: none"> The impact the Project will have on communities and land use; How the Project will commit to minimise and offset that impact; Description of outcomes of local community engagement and stakeholder mapping completed. Description of proposed local community engagement activities that reflect the potential future impacts on the community. Clearly articulated approach to First Nations Engagement. Description of community acceptance for land use and project layout, including consideration of: <ul style="list-style-type: none"> community consultation and interests; opportunities in the site selection process and any environmental constraints identified. Description of the Project’s communication protocols. Shared benefits initiative for the Project in the completed MC6 Returnable Schedule. 	<ul style="list-style-type: none"> Clear identification of impacted communities and stakeholders and demonstration of understanding of the views and any issues or impacts raised, supported by evidence of appropriate local community engagement to date. Clearly articulated local community engagement strategy tailored to the requirements of the Project and its impacts on stakeholders and communities. This should be mapped against Project timeframes and include robust governance arrangements and best practice engagement tools to facilitate community-led or community involved decision-making. Evidence of First Nations best practice engagement and place-based design, where appropriate to the site, including demonstration of culturally aware engagement that has led to or is intended to establish meaningful relationships with relevant representative bodies. Demonstrate consideration of early and collaborative community stakeholder engagement to inform site selection, including assessment of social and local considerations to understand community values and adapt the Project site to local site features where appropriate. Integration with land use practices adopted by local landowners, e.g. agricultural practices and/or Traditional owners. Evidence of how site selection and/or layout has considered constraints, addressed community and stakeholder concerns, and an approach to avoid or mitigate impacts. Demonstration of genuine and ongoing commitments to shared benefits exceeding local council and/or State Voluntary Planning Agreement³² (VPA) commitments.

Continued on next page

³² The Voluntary Planning Agreement is a legal agreement between planning authorities and developers which outlines contributions to the authority, under the *Environmental Planning and Assessment Act 1979* (NSW).

What is assessed	What is required	What we are looking for
Demand Response LTESA (where relevant)		
<p>Given the nature of such infrastructure, the Consumer Trustee considers that some Proponents may not be in a position to provide evidence or commitments to demonstrate merit for these criteria – see Section 4.1.2.</p> <p>Where the required information in the Returnable Schedule is not applicable to the Project (because it does not have a community impact), Proponents that do not submit a completed Returnable Schedule will not be assessed as Non-Compliant.</p> <p>Proponents are encouraged to submit alternative information or commitments, which will be considered during the assessment.</p>	<ul style="list-style-type: none"> • Completed MC6 Returnable Schedule where: <ul style="list-style-type: none"> a) relevant information in the Returnable Schedule is applicable to the Project and/or b) a Proponent chooses to provide additional, measurable commitments to strengthen their Project Bid. <p>This could include:</p> <ul style="list-style-type: none"> – Any incremental shared benefit scheme(s) – e.g. any schemes beyond the revenue-sharing business model relating to the Proponent’s contractors/clients. – Any incremental commitments related to community engagement or land use considerations – e.g. upskilling businesses in energy literacy. 	<ul style="list-style-type: none"> • Where a Proponent is in a position to complete MC6 Returnable Schedule where relevant information is applicable to the Project, as per the Firming Supply LTESA. • Demonstration of an integrated organisational approach by the Proponent for community engagement and social licence, including a strong understanding of community perceptions and robust community consultation. • Demonstration of shared benefit plans/activities within the organisation for local stakeholders, First Nations peoples and communities that are diverse and inclusive, have reach within communities and are sustainable.



MC7 – Regional economic development

Proponents should refer also to the call out box '[Treatment of future commitments related to social licence](#)'.

Scope: demonstration and/or commitments to improve regional economic development, including local supply chain, workforce and First Nations participation. The Consumer Trustee takes into account the [First Nation Guidelines](#) regarding consultation and negotiation with local Aboriginal communities and the plan for the [NSW Renewable Energy Sector Board Plan](#).

What is assessed	What is required ³³	What we are looking for
Firming Supply LTESA		
Local supply chain development (including investment, innovation and environmentally sustainable procurement)	<ul style="list-style-type: none"> • Completed MC7 Returnable Schedule with local supply chain target commitments. This may include: <ul style="list-style-type: none"> – Strategies and activities to demonstrate how targets will be achieved. – Strategies and/or initiatives to address barriers to entry for small and medium-sized enterprises (SME's), including but not limited to, Aboriginal-owned businesses. – Description and evidence of paying small business subcontractors (e.g. favourable contract payment terms, internal process document and/or declaration of timely payment). 	<ul style="list-style-type: none"> • Demonstration of Project commitment to meet or exceed relevant technology baseline requirements at Table 6. • Evidence of clear strategies, actions, policies and practices to support the achievement of target commitments, including demonstrated understanding of specific local context and/or Project-specific considerations. • Commitments to investment and innovation in the local supply chain in the NSW renewable energy sector, including but not limited to R&D related to the technology used and support for start-ups and social enterprises related to renewable energy and First Nations communities.

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

What is assessed	What is required ³³	What we are looking for
Firming Supply LTESA		
Local supply chain development (continued)		<ul style="list-style-type: none"> • Evidence of the strategies, actions, policies, and practices that will support environmentally sustainable procurement throughout the supply chain on the specific Project. <ul style="list-style-type: none"> – Consideration may include, but is not limited to, environmentally sustainable procurement in its operations (e.g. construction site waste, net zero plan, reducing water usage) and promoting sustainable practices throughout the supply chain (e.g. participating in or committing to battery recycling programs or research). – This may include alignment with NSW Net Zero Plan and/or NSW Circular Economy Policy Statement and/or sourcing materials according to EN15804, Green Building Councils or other appropriate sustainability frameworks. • Evidence of policies to support and meet obligations to SME subcontractors, e.g. track record of SME procurement on projects, timely payment and/or favourable payment terms. • Demonstration of successfully meeting similar local content procurement on previous projects.
Employment and workforce development	<ul style="list-style-type: none"> • Completed MC7 Returnable Schedule with workforce target commitments. This may include: <ul style="list-style-type: none"> – Description of activities to upskill and develop local workforce as part of the Project delivery. – Description and commitments of education, training and/or capacity building for First Nations Businesses. 	<ul style="list-style-type: none"> • Demonstration of Project commitments to meet or exceed baseline requirements at Table 6. • Outstanding strategies, supported by evidence, to support local workforce development (e.g. pre-employment training, scholarships, cross-skilling to renewables and supporting apprentices). This may include employment initiatives or programs undertaken by the Proponent to upskill and develop local workforces (e.g. programs for hard-to-reach, underrepresented groups such as women, long-term unemployed and Aboriginal people from the local region).

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What is assessed	What is required ³⁴	What we are looking for
Demand Response LTESA		
<p>Given the nature of such infrastructure, the Consumer Trustee considers that some Proponents may not be in a position to provide evidence or commitments to demonstrate merit for this criteria – see Section 4.1.2. Demand Response LTESA Bids are not required to provide commitments for this criteria, but at a minimum must provide the information requested in the MC7 Returnable Schedule (Table 2 – Employment and Workforce commitments of the MC7) in relation to how the Bid will create employment and support industry in NSW, related to the LTESA.³⁵</p> <p>Where the information required in the Returnable Schedule is otherwise irrelevant (because the Project does not have any applicable activities that support commitments for this Merit Criteria), Bids that do not provide commitments in the Returnable Schedules will not be assessed as Non-Compliant.</p> <p>Proponents are encouraged to submit alternative information or commitments, which will be considered in the merit assessment.</p> <p>Demand Response Projects should also note that there are no baseline targets and voluntary efforts will be taken into account in the merit assessment.</p>	<ul style="list-style-type: none"> • Completed MC7 Returnable Schedule required at a minimum for Table 2 – Employment and Workforce and where otherwise relevant, and also where a Proponent chooses to provide additional, measurable commitments to strengthen their Project Bid. Accordingly: <ul style="list-style-type: none"> – the Returnable Schedule must include information on the Proponent’s activities to create employment and support industry in NSW. – the Returnable Schedule may include: <ul style="list-style-type: none"> (a) evidence of the organisation’s strategies and activities to address barriers to entry for small and medium-sized enterprises (SME’s) to secure business, including but not limited to, Aboriginal-owned suppliers. (b) evidence of the organisation’s strategies and activities to upskill and develop local workforces. 	<ul style="list-style-type: none"> • Demonstrated understanding and evidence of the Proponent’s organisation-wide strategies, actions, policies, and practices that support environmentally sustainable procurement throughout the supply chain. • Demonstrated evidence of the Proponent’s organisation-wide strategies and actions that support local industry (e.g. providing an additional revenue stream to energy-intensive industries to reduce energy bills). • Demonstrated evidence of the Proponent’s organisation-wide strategies and actions that support local workforce development (e.g. organisational approach to assist with regional employment, pre-employment training, scholarships, cross-skilling to renewables and supporting apprentices). This may include employment initiatives or programs for hard-to-reach, underrepresented groups such as women, long-term unemployed and Aboriginal people from the local region.

³⁴ Including Proponents for Projects that have reached Financial Close or COD.

³⁵ EII Act, section 47(4).

Baseline requirements and stretch goals related to MC7 – Regional economic development

Commitments towards achieving baseline requirements and/or stretch goals will be assessed against Table 6, based on considerations in the [NSW Renewable Energy Sector Board Plan](#). Proponents should note that:

- Regarding the supply chain inputs criteria plus investment and innovation in the supply chain, baseline requirements and/or stretch goals do not apply to non-battery storage technologies. Projects demonstrating 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.
- Where a Project is not able to commit to any particular baseline requirement, the Proponent should:
 1. Stipulate the lower level of commitment that it can commit to for the relevant target and
 2. Provide a detailed justification as to the constraint that prohibits the requirements from being achieved. The robustness of the evidence and rationale provided will form part of the assessment.
- Project Bids that do not provide commitments will be assessed based on a nil response and may be assessed as Non-Compliant where insufficient justification is provided to support their response. Proponents should also note the specific guidance provided below with respect to Demand Response LTESAs.
- Projects demonstrating 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.
- Projects that have progressed beyond the development stage should submit their performance details against the relevant targets to date and provide commitments relevant to future phases, including operations and maintenance.

Table 6: Baseline requirements and stretch goals related to MC7

Supply chain inputs criteria		Baseline requirements – battery storage technologies	
Before COD – development and construction phase (% of Total Project Contract Value (TPCV))		23%	
After COD – operation and maintenance phase (% of TPCV)		35%	
Steel product and components using locally milled steel (% of total Steel)		95%	
Supply chain inputs criteria		Stretch goals – battery storage technologies	
Before COD – development and construction phase (% of TPCV)		78%	
After COD – operation and maintenance phase (% of TPCV)		79%	
Steel product and components using locally milled steel (% of total Steel)		95%	
Investment and innovation in the supply chain		Baseline requirements and stretch goal – battery storage technologies	
Commitment made to local supply chain, including for investment, innovation and environmentally sustainable procurement (cost in real AU\$)		Proponents to make a voluntary but contractually binding commitment to investment and innovation.	
Employment, skills and knowledge transfer criteria		Baseline requirement	Stretch goal
Learning workers (% of total Project workforce)		20%	40%
Apprentices (% of all trades positions on a Project)		20%	30%
Fair and ethical practice criteria		Baseline requirement	Stretch goal
Employment of underrepresented groups ³⁶ (% of total Project workforce)		15%	25%
First Nations participation criteria		Baseline requirement	Stretch goal
First Nations participation (% of TPCV)		1.5%	10%, or the goal in the region-specific protocol under the First Nations Guidelines.

³⁶ 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.



MC8 – Reduction in scope 1 emissions of greenhouse gas

Scope: the extent to which the Project contributes to a reduction in scope 1 emissions of greenhouse gas in the NSW electricity sector during Project operations (Emissions).

This Merit Criteria is a new criterion introduced for this Tender Round and will apply to future firming infrastructure tenders. It intends to assess a Project's contribution to the reduction of Emissions, and reflects the NSW government policy to reduce Emissions.³⁷

The assessment of Emissions under MC8 is distinct from the LTESA requirement (that requires compliance with the offset regime in Part 12 of the EII Regulation) that greenhouse gas emissions from Projects be offset each year. MC8 assesses a Project's contribution to NSW government policy of reducing Emissions, whereas the LTESA requirement for offsets seeks to ensure that emissions resulting for a Project are appropriately offset.

What is assessed	What is required	What we are looking for
For Firing Supply LTESA and Demand Response LTESA		
<p>Reduction in scope 1 greenhouse gas emissions – impact on emissions intensity</p> <p>The Project's technology type and technical features are assessed to understand the Project's impact on emissions intensity in the NSW electricity system.</p>	<ul style="list-style-type: none"> • Technical information required for assessment against this Merit Criteria is consistent with the information required for Merit Criteria 3. • Any features or characteristics of the Project (e.g. fuel source or innovative technology efficiency) that could reduce Project's emissions. • Any commitments to procure and/or surrender ACCUs associated with the Project in addition to those required under the offset regime in Part 12 of the EII Regulation (if applicable). • Any steps or actions to reduce scope 1 emissions related to the Project. 	<ul style="list-style-type: none"> • Demonstration of the Project's contribution to reduction in Emissions as assessed based on Proponents submitted information. • Information that allows the scope 1 emissions of the Project to be calculated for each forecast year. • Information on features or characteristics of the Project that could reduce the Project's emissions over time. • Information on offsetting plans for the Project, including any long term commitments to offset in addition to those required under the offset regime in Part 12 of the EII Regulation (if applicable).

Continued on next page

³⁷ EII Act, definition – non-financial value criteria; reg 29(3).

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. It applies to all available Products in this Tender Round. Proponents will be required to complete a Financial Value Returnable Schedule.

For MC1, Projects receiving financial support in the form of regulated revenue (that is allowed under EC10) will only have the portion of their Project not in receipt of such financial support included (e.g. a 100 MW Project with 50 MW operating under regulated revenue will be assessed as a 50 MW Project).

Contribution to meeting the Reliability Standard

A Project's contribution to reducing unserved energy across NSW is a key consideration during the assessment of Merit Criteria 1 – Financial Value – as a positive financial contribution to NSW electricity customers. These factors aim to capture the Project's contribution to meeting the Reliability Standard by reducing USE, which depends on installed capacity (MW) and storage duration.

AEMO's Electricity Statement of Opportunities (ESOO) is used to calculate how much USE (in MWh) each Project with a defined capacity and duration can avoid. The resulting avoided USE is then multiplied by the Value of Loss Load, in this case, the Value of Customer Reliability in NSW, amounting to \$46,025/MWh (2022\$ real), under AEMO's Draft 2023 Inputs, Assumptions and Scenarios Report.³⁸

Table 7 shows the value of contributions to USE – derived from the AEMO ESOO 2022. The contributions are specific to the selected examples. *Note: Amounts may be adapted during assessment to include more recent information, if available.*

USE events have different forecast durations meaning a Project's contribution to reducing the USE event will vary depending on a Project's duration. For example, energy-limited plants (e.g. energy storage technologies) will have a lower theoretical contribution when compared to a Project with unlimited duration or run time (e.g. a gas generator). Similarly, a Project with the same capacity will achieve a more favourable contribution to reducing USE events if it has a greater storage capacity due to its higher contribution to reducing USE in NSW. For example, a chemical battery with a 2-hour duration will have a significantly lower contribution to reliability compared to a chemical battery with a 6-hour duration.

Table 7: Value of contribution to USE

Duration	Contribution to USE 100MW Project (\$/MW)	Contribution to USE 300MW Project (\$/MW)
1 hour	34,400	33,036
2 hours	64,799	61,159
3 hours	90,952	84,481
4 hours	111,971	102,490
5 hours	127,973	115,204
6 hours	138,816	123,131
7 hours	145,131	127,694
8 hours	148,559	130,008

³⁸ Draft 2023 Inputs, Assumptions and Scenarios Report, December 2022 https://aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem-consultations/2022/2023-inputs-assumptions-and-scenarios-consultation/draft-2023-inputs-assumptions-and-scenarios-report.pdf?la=en



MC1 – Financial value

Scope: the Financial Value of the Project, including the effect of the Project on:

- 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 LTESAs;
- the costs of other services associated with power system security;
- the payments that will be required to be made by the [SFV](#) under LTESAs;
- other matters the Consumer Trustee considers relevant.³⁹

What is assessed	What we require
For both Firming Supply LTESA and Demand Response LTESA	
Financial value of the Project	<ul style="list-style-type: none"> • Bid Variables for the Default and/or for an optional Alternative Financial Value Bids. • Fuel source, project capacity (if applicable), operational life and the target COD. • Anticipated first year of exercise. • 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.
For Firming Supply LTESA only	
Financial value of the Project	<ul style="list-style-type: none"> • Degradation profile indicating annual degradation in aggregate for all Project components. • Operational life assumptions, including supporting evidence (e.g. EPC or O&M warranties). • Locations of the Project and network connection point.

Continued on next page

³⁹ For LTESAs, EII Regulation, reg 26(4).

How will we assess	What we are looking for
For Firming Supply LTESA only	
<p>Contribution to Reliability Standard</p> <ul style="list-style-type: none"> Projects' capacity, duration and load capability will be considered in their capability to reduce unserved energy. This benefit will be estimated by determining the financial value of avoided unserved energy, using data from the latest AEMO ESOS or similar analysis and Value of Lost Load. Firming LTESA Projects are expected to positively impact system reliability, potentially reducing the likelihood of unserved energy events and reducing reliability-associated costs to consumers. The value of an energy limited plant's contribution to the Reliability Standard through the reduction in unserved energy. For Projects such as energy storage, this contribution is heavily dependent on its storage duration.⁴⁰ 	<ul style="list-style-type: none"> Ability to reduce the magnitude and number of occurrences of avoided unserved energy. Based on the above, this will favour Projects: <ul style="list-style-type: none"> with a high capacity (MW) that are not energy limited with a longer duration/run time (in the case of energy limited plant).
<p>Wholesale electricity costs and market benefits⁴¹</p> <ul style="list-style-type: none"> A Project is expected to result in a reduction of the average NSW wholesale market price. This is expected to be driven by additional generation in times of high prices. 	<ul style="list-style-type: none"> Projects that are expected to reduce wholesale electricity market prices in NSW.
<p>Net LTESA cost⁴²</p> <ul style="list-style-type: none"> Projects' Annuity Cap and Net Revenue Threshold are assessed alongside a duration and load-capability benchmark to estimate expected net costs incurred by the SFV across multiple future scenarios. 	<ul style="list-style-type: none"> Low <ul style="list-style-type: none"> Annuity Cap Bid Net Revenue Threshold Bid Contracted Percentage applicable only to Firming Supply LTESAs⁴³ A short contract term High potential for market revenues which decrease expected annuity payments.

⁴⁰ AEMO analysis is underway to determine the contribution to unserved energy events that may be applied to Projects as part of MC1 in this Tender Round.

⁴¹ EII Regulation, reg 26(4)(a),(e).

⁴² AEII Regulation, reg 26(4)(b),(c) and (d).

⁴³ For MC1, Projects receiving financial support in the form of regulated revenue (that is allowed under EC10) will only have the portion of their Project not in receipt of such financial support included (e.g. a 100 MW Project with 50 MW operating under regulated revenue will be assessed as a 50 MW Project).



MC2 – Commercial departures

Scope: the nature and extent of commercial departures and the resulting risk-transfer from the proforma [Project Documents](#).

What is assessed	What we require	How will we assess
Commercial departures	<ul style="list-style-type: none">• Completed departure table (Returnable Schedule), including the reason for requesting each departure.• Marked-up version or compare version of the relevant Project Documents with their proposed changes in a form ready for acceptance.• Clean versions of the Project Documents in a form that they are ready for execution by the Proponent (i.e. requiring no further changes, including parties' details and execution clause) and will be considered capable of acceptance.	<p>Departures should be limited to those critical to the Proponent's commercial or technical requirements. 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:</p> <ul style="list-style-type: none">• Lower scores will be allocated to Bids where the departure(s):<ul style="list-style-type: none">– 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.– Alters consistency with other LTESAs or would bring additional administrative burden and cost to the SFV.• Higher scores will be allocated to Bids with no proposed departures.



5 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 (and each Consortium Member):

- 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 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 (and 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, Consortium Members or their respective Associates.

The Proponent (and 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. makes any warranties or representations (express or implied), or assumes any duty of care, or accepts any Liability with respect to the completeness, accuracy, adequacy or correctness of the Tender Documentation or the Disclosed Information;
- b. makes 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 and Consortium Member 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 and Consortium Members must:

- a. ensure, at all times, that it and its Associates to whom the Proponent or Consortium Member 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, Consortium Member 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 agreement 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 (and each Consortium Member and their respective Associates) 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 (and 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 through the Q&A Process operated by the Consumer Trustee in accordance with Section 3.1.1 of these Guidelines, not less than 7 Business 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 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, Consortium Member or any of their respective Associates to attend meetings with the Consumer Trustee, its Associates or an 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 an 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, Consortium Members or any of their respective 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, Consortium Members or any of their respective 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, Consortium Members and their respective 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

Primary obligation in relation to conflicts of interest and notification requirements

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.

Subject to and in accordance with Section 5.41, all notifications required to be made by Proponents to the Consumer Trustee under this Section 5.16 or otherwise in relation to a conflict of interest, must be made using, and in accordance with, the Conflict of Interest/Adverse Circumstances Notification Form available to registered Proponents on the Online Portal.

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; and
 - 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 (and 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

In addition to the primary obligation on Proponents above in this Section 5.16, 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. Associates;
- b. third party suppliers; and/or
- c. third party subcontractors,

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

Each Proponent (and 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 by the relevant parties to the Consumer Trustee's 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.

Conflicts of interest between the Consumer Trustee and a Proponent

In addition to the primary obligation on Proponents above in this Section 5.16, a Proponent must promptly notify the Consumer Trustee of any relationship it or its Associate (including any Consortium Member) 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 each Consortium Member acknowledges and agrees 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 Tender Round 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 and each Consortium Member 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.

Proponents are also required to nominate a Bid Entity in accordance with the Proponent Eligibility Criteria (see Section 4.1.1). This section outlines the requirements for a Proponent depending on its structure.

Where Bid Entity is known and available to register to participate in Tender Round

Following announcement of the Tender Round, where the Bid Entity is available for registration at commencement of participation in the Tender Round (regardless of whether it is owned by a consortium or single entity) then that Bid Entity is the Proponent for the purposes of these Guidelines and for entering into the Tender Process Deed.

Where Bid Entity is not available to register to participate in Tender Round

Following announcement of the Tender Round, if a Bid Entity is not available for registration at the commencement of participation in the Tender Round (eg a special purpose vehicle is intended to be incorporated later in the Tender Round process), then:

- a. where no consortium ownership structure is proposed, the legal entity who registers in accordance with Section 3.1.1 will be (unless otherwise agreed with the Consumer Trustee) the Proponent for the purposes of the Tender Round and accordingly will enter into the Tender Process Deed; and
- b. where a consortium ownership structure is proposed, those consortium members (as the Proponent) will enter into the Consortium Process Deed.

The Consortium Process Deed includes an election of one Proponent Consortium Member to provide the Security for Process Bond for and on behalf of the Proponent acting as a consortium.

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 or Bid Entity;
- b. the appointment, termination or replacement of an Associate of the Proponent (where such notice must include details of the nature of the appointment); or
- c. the scope or terms of the appointment of an Associate of the Proponent.

All notifications required to be made by Proponents to the Consumer Trustee under this Section 5.20 or otherwise in relation to a change in Proponent structure, must be made using, and in accordance with, the General Notification Form available to registered Proponents on the Online Portal.

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. require the relevant parties to enter into a Consortium Process Deed or accession deed (as applicable) or to take any further action required by the Consumer Trustee (including providing any written acknowledgements as to the Proponent's structure or membership);
- b. assess the relevant change in circumstances and elect to terminate the Proponent's or any Consortium Member's further participation in the Tender Round; and/or
- c. 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 Consortium 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 Process Deed (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 may be advised from time to time by the Consumer Trustee on its website or by direct communication to Proponents.

These 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 (and 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 (and 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 (and 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 (and 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 (and 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 (or any Consortium Member) 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 (or any Consortium Member) 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 (and each Consortium Member) acknowledges and 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 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 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 Proponent or any other person from continued participation in the Tender Round in the event that a 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, Consortium Members or their respective 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 Selected Proponents at any time;
- w. require one or more of the 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 (and 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;
- b. the Bid Entity 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;
- c. 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
- d. 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, Consortium Members and their 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, 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 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 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 (or any Consortium Member'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

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. 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, 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 of any offer or any representation to that effect unless and until SFV has formally entered into the Project Documents.

5.37 Debriefing and disclosure

The Consumer Trustee, at its discretion, may (but is under no obligation to) debrief any unsuccessful Proponent (and 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.

The Consumer Trustee is under no obligation to disclose to any Proponent (and 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 (and 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 (and 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

Communications from the Proponent (including any Consortium Member) to the Consumer Trustee will be managed (as applicable) through the Online Portal and subject to these Guidelines and probity requirements. Communications or notifications to the Consumer Trustee must be made (as applicable) through the Q&A Process, General Notification Form or Conflict of Interest/ Adverse Circumstances Form, or other means as notified by the Consumer Trustee from time to time during a Tender Round, which will be made available to registered Proponents only through the Online Portal (unless otherwise notified by the Consumer Trustee during a Tender Round). For the avoidance of doubt, the submission of a Bid in accordance with Section 3.1.1 does not constitute a communication to the Consumer Trustee for the purposes of this Section 5.41.

The Proponent and any Consortium Member 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 (and each Consortium Member's participation) in the Tender Round that the Proponent (including any Consortium Member) 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 (and 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.



6 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	The NSW Government’s plan to transform the NSW electricity sector by supporting private investment in renewable energy projects by 2030.
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.
EII Act	The <i>Electricity Infrastructure Investment Act 2020 (NSW)</i> , which enables the NSW Electricity Infrastructure Roadmap and underpins the competitive tender process and key regulatory entities. Where relevant the EII Act has been referred to in these guidelines.
EII Regulation	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.
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 Roadmap⁴⁴ 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.

⁴⁴ [NSW Electricity Infrastructure Roadmap Virtual Engagement Room](#)

6.2 Entities under the Roadmap

Specially-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 an Infrastructure Investment Objectives Report every two years (and as soon as practicable after being directed by the Minister to conduct a competitive tender for LTESAs for firming infrastructure), mapped to a Development Pathway (over a 20-year horizon) for electricity infrastructure and a 10-Year Plan for LTESA Tenders Rounds.⁴⁵
- Undertake tenders for LTESAs in accordance with regulation and the gazetted Tender Rules.⁴⁶



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

⁴⁵ Section 45 of the EII Act

⁴⁶ Section 47 of the EII Act.

⁴⁷ 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 is the counterparty to any LTESAs⁴⁷ and would be expected to be highly rated from a credit perspective.

The SFV is 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 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).⁴⁸

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.



⁴⁸ 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.⁴⁹

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.⁵⁰

Relevance to Tender Rounds

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

- Content of the Tender Rules.⁵¹
- When and how the Consumer Trustee can make recommendations to the SFV about LTESAs.⁵²
- 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.⁵³

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.⁵⁴ 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.

⁴⁹ Section 3(1) of the EII Act.

⁵⁰ Page 30 of NSW Electricity Infrastructure Roadmap Overview.

⁵¹ Section 47(5) of the EII Act.

⁵² Section 48 of the EII Act.

⁵³ Section 51 of the EII Act.

⁵⁴ Section 26 of the EII Act.

6.4 Electricity Infrastructure Investment Regulation 2021 (NSW)

Outline

The *Electricity Infrastructure Investment Regulation 2021 (NSW)* (EII Regulation) deals 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 to be 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 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 Offset requirements – for firming LTESAs only

Under the EII Regulation, and as required in accordance with the terms of the relevant LTESA, LTES Operators for firming infrastructure are required to comply with certain offset requirements regarding the offset of scope 1 emissions of greenhouse gases from the firming infrastructure.⁵⁵ The threshold and quantum of offset units accords to the calculation of a yearly emissions intensity for firming infrastructure in the context of emissions intensity for all generation facilities in NSW, pursuant to the EII Regulation. These calculations are to be determined and published by the regulator which, unless otherwise determined by the Minister, shall be the Environment Protection Authority.⁵⁶

⁵⁵ EII Regulation, Part 12 Division 2.

⁵⁶ EII Act, section 64(1)(c); EII Regulation, reg 41A. See also EII Regulation, Part 12, Division 3.

6.6 IIO Reports

The EII Act requires that the Consumer Trustee prepare a report every two years (and more frequently in certain circumstances) 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.
 - Firming 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 LTESAs, 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.

The Consumer Trustee is also to prepare an IIO Report as soon as practicable after being directed by the Minister to conduct a competitive tender for LTESAs for firming infrastructure, under section 45(3) of the EII Act. Accordingly, the IIO Report (2022) was released on 2 December 2022 in accordance with this section 45(3) of the EII Act. The IIO Report (2022) sets out a development pathway for firming infrastructure and includes key parameters of the competitive tender such as the timing and indicative target capacity.

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.⁵⁷ For Tender Rounds involving LTESAs, the Tender Rules must be gazetted 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.⁵⁸

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.⁵⁹ 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.⁶⁰

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.⁶¹

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.⁶²

Relevance to Tender Rounds

The Consumer Trustee must take into account the Sector Board Plan when exercising its functions, including conducting the Tender Round, assessing and making recommendations on selected Projects.⁶³

⁵⁷ EII Act, section 47(5) and EII Regulation, reg 42A(2)(a)

⁵⁸ Sections 47(5) and 47(7) of the EII Act.

⁵⁹ Section 7(4)(a) of the EII Act.

⁶⁰ Section 8(5) of the EII Act.

⁶¹ Section 8(1) of the EII Act.

⁶² EII Regulation, reg 5

⁶³ Section 9(1) of the EII Act.

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 take into account the First Nations Guidelines when exercising its functions, including conducting the Tender Round, assessing and making recommendations on selected Projects.⁶⁴

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:

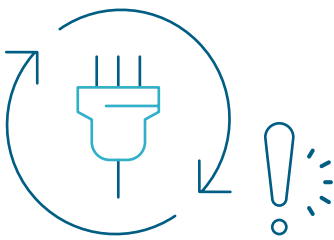
- The five specific risks related to LTESAs that are covered by the Risk Management Framework.
- Specific risks to be considered by the Consumer Trustee as may be set out in the EII Regulations from time to time.
- The requirements in the EII Act for the Consumer Trustee to act in the long-term financial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

⁶⁴ Section 4(4) of the EII Act. Please see [MC6](#) and [MC7](#) for further details on how this will be assessed in the IAPP.

6.11 REZ and Access Scheme Declarations – for Access Rights only

6.11.1 REZ Declarations

Under the EII Act, the Minister may declare a REZ comprising (REZ Declaration):⁶⁵

- 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.⁶⁶

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 declare the Access Scheme that is to apply in a REZ or part of a REZ (Access Scheme Declaration).⁶⁷ 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.⁶⁸

The Access Scheme Declaration entitled “Central-West Orana Renewable Energy Zone (CWO REZ) Access Scheme” was declared by the Minister under the EII Act, section 24(1), on 19 December 2022 and published in the NSW Government Gazette on 23 December 2022. This declaration sets out how generation and storage projects can be granted Access Rights to new network infrastructure within the CWO REZ.

⁶⁵ Section 19(1) of the EII Act.

⁶⁶ Section 22(1) of the EII Act.

⁶⁷ Section 24(1) of the EII Act.

⁶⁸ Sections 24(3) and (5) of the EII Act.

Project Documents



The proforma
Project Documents
can be found here.



Project Documents

[Draft] proforma [Project Documents can be found here.](#)

Appendix



A1. EST contribution factor calculation assumptions

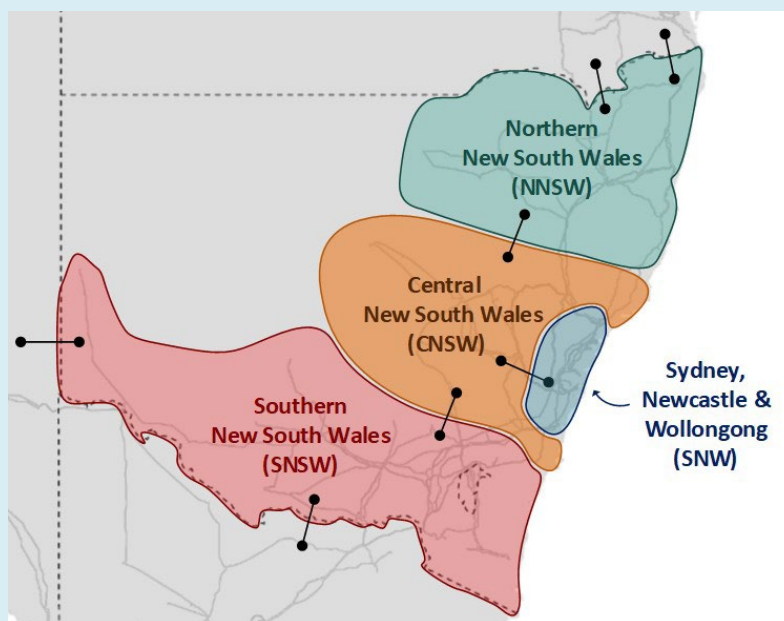
The Consumer Trustee engaged AEMO to conduct an EST firming impact study in January 2023. The purpose of the study was to understand how a Project's size (in MW) and connection point outside of the SNW sub-region contribute to meeting the EST within SNW.

AEMO undertook power flow modelling of a particular 'snapshot' of the network to represent the most likely conditions for when an EST event would occur. This included representing NSW conditions at peak demand, consistent with the Energy Security Target Monitor (e.g. 10% POE demand event in 2025-26, with the two largest generating units offline).

This EST firming impact study produced EST contribution factors for connection points located outside of SNW. These factors reflect the ratio of additional capacity that can be supplied to SNW from installed capacity of firming generation (MW) at a particular location. It is a measure of the ability of the firming generator to reach the SNW region to satisfy the EST breach. It is important to note the EST contribution factor:

- Reflects estimates of network losses and thermal constraints from contingency analysis (N-1) in power system studies.
- Is only a measure of a Project's contribution to the EST and is not a measure of any other time, market or network conditions, or a Project's quality. It is indicative for this peak period and does not constitute nor guarantee firm access rights.

Figure 2: Sub-region of New South Wales used in the EST



Two generator sizes – 150MW and 380MW – were studied by AEMO using assumptions made in collaboration with the Consumer Trustee. These assumptions were made to align with how the EST is calculated and used the best available information at the time. An overview of these assumptions are set out in Table 8. AEMO completed a two-stage evaluation:

1. Hosting capacity of the connection point (P_{host}) – AEMO has evaluated the amount of generation that the connection point can provide, without violating thermal limits during peak demand conditions. The introduction of a generator may exacerbate congestion on the network. If network congestion occurs, the size (P_{host}) of the firming generator is reduced until equipment returns to their contingency ratings. If there is a binding thermal constraint prior to additional generation being added, then the hosting capacity is effectively zero.
2. EST firming contribution factor – The firming generator with a capacity of either 150 MW or 380 MW is applied at the connection point and dispatched to the P_{host} level determined in step 1. The EST firming contribution factor is then calculated by dividing the generator’s contribution to SNW peak demand (when dispatched to the P_{host} level) by the installed capacity (150 MW or 380 MW).

The EST contribution factors were calculated using the following equation:

$$EST \text{ Firming contribution Factor} = (P_{flow \text{ with generator}} - P_{flow \text{ without generator}}) / P_{genMax}$$

- where $P_{flow \text{ with generator}}$ is the power received at the SNW end of the CNSW-SNW flow path, with the firming generator output at P_{host}
- where $P_{flow \text{ without generator}}$ is the power received at the SNW end of the CNSW-SNW flow path, without the firming generator output at P_{host}
- where P_{genMax} is the size of the firming generator studied (i.e. 150 MW or 380 MW)
- where P_{host} is the evaluated hosting capacity of the connection point.

Table 8: Assumptions used to calculate the EST contribution factors

Category	Assumption	Reference
Year of study	Summer 2025-26	
New South Wales Demand forecast	Summer 10% POE Operational 'as sent out' demand: <ul style="list-style-type: none"> NSW: 14,117 MW SNW: 10,741 MW CNSW: 1,255 MW 	Energy Security Target Monitor Report October 2022 https://www.energy.nsw.gov.au/sites/default/files/2022-12/28October2022-Energy-Security-Target-Monitor-Report.pdf
Network representation	Existing plus committed projects. Committed network projects, as per the network augmentation committed definition in AEMO's ESOO and Reliability Forecast Methodology, August 2022, are included in this assessment.	Transmission Augmentation Information Page December 2022 https://aemo.com.au/energy-systems/electricity/national-electricity-market-nem/nem-forecasting-and-planning/forecasting-and-planning-data/transmission-augmentation-information
Generation representation	Existing and committed scheduled, semi-scheduled, significant non-scheduled and future generation aligned with Consumer Trustee development pathway.	
Generation retirement	Liddell all four units Eraring all four units	AEMO website 'Generation Information' https://aemo.com.au/en/energy-systems/electricity/national-electricity-market-nem/nem-forecasting-and-planning/forecasting-and-planning-data/generation-information
Generation dispatch	Non-renewable generation dispatch is to match Summer peak 2025-26 generation output.	AEMO website 'Generation Information' https://www.aemo.com.au/-/media/files/electricity/nem/planning_and_forecasting/generation_information/2022/nem-generation-information-november-2022.xlsx?la=en
	Renewable generation dispatch is to match assumptions <ul style="list-style-type: none"> Wind generation contribution factor: 17.9% Solar generation contribution factor: 10.7% Assumes loss of two largest coal units in SNW.	Energy Security Target Monitor Report October 2022 https://www.energy.nsw.gov.au/sites/default/files/2022-12/28October2022-Energy-Security-Target-Monitor-Report.pdf
Inter-regional transfer levels	<ul style="list-style-type: none"> QNI (Qld to NSW): 1,205 MW Terranora: 130 MW VIC to NSW: up to 870 MW SA to NSW: Project EnergyConnect was modelled to progressively release capacity. 	AEMO website 'Inputs, assumptions, and scenarios workbook June 2022' https://aemo.com.au/-/media/files/major-publications/isp/2022/2022-documents/inputs-assumptions-and-scenarios-workbook.xlsx?la=en
Point of connections of LTESA generators	NSW 330 kV substation bus outside of SNW.	
EST Firming generation	EST Firming generation supplied to the load within SNW including network losses.	

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 the EII Act, section 24, to apply in a REZ or part of a REZ.
Access Scheme Declaration	As defined in Section 6.11.2 of these Guidelines.
Access Right	Access Rights allocated under a declared Access Scheme that authorises access to, and use of, the Access Rights Network.
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.
Alternative Bid	An Alternative Financial Value 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 of these Guidelines, 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 of these Guidelines.
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"> (a) each Consortium Member (including any Bid Entity) and any Related Body Corporate, adviser, officer, employee, agent, contractor, consultant, nominee, licensee or adviser of a Consortium Member; (b) 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; <p>but excludes the Consumer Trustee and its Associates to the extent that they could be considered to be captured in the above paragraphs (a)-(b); and</p> <ul style="list-style-type: none"> • 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.

Term	Definition
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 Entity	The legal entity to be the counterparty to the PDA and/or LTESA, as proposed in accordance with Eligibility Criteria 16. This entity may be the same as the Proponent if it is the entity that has registered to participate in the Tender Round, and no different legal entity is submitted in accordance with Eligibility Criteria 16.
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.
Business Day	A day other than Saturday, Sunday and any other day not taken to be a public holiday in Sydney, Australia.
Claim	Any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity) made: <ul 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 6 that complies with the requirements set out in Returnable Schedule for Merit Criteria 6.
Commercial Operations Date (COD)	In respect of a Project, has the meaning given to that term in the relevant Project Development Agreement.
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 or CER	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.
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	The consortium version of the Tender Process Deed that is entered into in accordance with section 5.19 of these Guidelines.
Consumer Price Index (CPI)	The Consumer Price Index as published by the Australian Bureau of Statistics.

Term	Definition
Consumer Trustee	AEMO Services, in its capacity as the NSW Consumer Trustee appointed pursuant to the EII Act, section 60. References to the Consumer Trustee include, where the context requires, the Consumer Trustee's Associates.
Contracted Percentage	As defined in Section 2 of these Guidelines.
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 of these Guidelines, including any Returnable Schedules, together with any additional information submitted by the Proponent.
Demand Response LTESA	As defined in the definition of 'Product'.
Development Approval	A 'development approval' pursuant to the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
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 2:</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 2; • 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.
EII Act	<i>Electricity Infrastructure Investment Act 2020</i> (NSW).
EII Regulation	<i>Electricity Infrastructure Investment Regulation 2021</i> (NSW).
Electricity Infrastructure Fund	The electricity infrastructure fund established under s 53 of the EII Act.
Eligibility Criteria or EC	Proponent Eligibility Criteria and Project Eligibility Criteria.
EnergyCo	Energy Corporation of New South Wales (ABN 13 495 767 706), being a statutory authority established under the <i>Energy and Utilities Administration Act 1987</i> (NSW).
EST	NSW Energy Security Target.
Final Annuity Product End Date	The date that is bid by a Proponent as a number of years after the first option date.

Term	Definition
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 or FC	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 of these Guidelines, 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 2 details.
Financial Value Merit Criteria	Merit Criteria 1 and Merit Criteria 2.
Financial Value Shortlist	Selected shortlist of Financial Value Bids.
Firming 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.
Firming Supply LTESA	As defined in the definition of 'Product'.
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.
Historical Net Payments	As defined in the LTESA.
IIO Report (2022)	Firming Infrastructure Investment Objectives report released by the Consumer Trustee on 2 December 2022 in response to a direction from the Minister and as required by the EII Act.
IIO Report	An Infrastructure Investment Objective Report prepared by the Consumer Trustee under EII Act, sections 45(2) or 45(3) (as applicable).
Industry and Aboriginal Participation Plan (IAPP)	The plan to be submitted as part of a Bid in respect of EC12 and Merit Criteria 7 the complies with the requirements set out in the Returnable Schedule for Merit Criteria 7.
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 EnergyCo.
Initial Security	In respect of a Bid, has the meaning given to that term in the Project Development Agreement.

Term	Definition
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).
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	<p>Any loss, cost, liability or expense whether:</p> <ol 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.
LGC	Large-scale Generation Certificate.
LTES Operator	Party responsible for the operation and management of generation or long duration storage facility in connection with a LTESA.
LTESA	Long-term Energy Service Agreement, which includes Firming LTESAs.
Maximum Capacity	The generation capacity that a Project intends to be registered with AEMO to dispatch up to into the NEM.
Merit Criteria or MC	Merit Criteria as set out in Section 4.2 of these Guidelines.
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.

Term	Definition
NER	The National Electricity Rules made under the NEL, as it is applied in NSW.
Net Operational Revenue	As defined in the LTESA.
Net Revenue Threshold	As defined in Section 2 of these Guidelines.
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.
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.
NSP	Network Service Provider.
OECC	NSW Office of Energy and Climate Change.
Online Portal	The online portal made available by the Consumer Trustee to Proponents as part of participation in the Tender Round.
Portfolio Assessment	As described in Section 3.1.7 of these Guidelines.
Portfolio Shortlist	Selected shortlist of Financial Value Bids developed after the Portfolio Assessment.
Product(s)	The Firming LTESA products being procured under this Tender Round, being one of either: <ul style="list-style-type: none"> Firming supply model – covers all non-demand response firming infrastructure, which includes all assets scheduled in the NEM (Firming Supply LTESA). Demand response model – applies to assets scheduled through the wholesale demand response mechanism (Demand Response LTESA).
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 Development Agreement or PDA	A contract governing the construction and operation of a Project awarded an LTESA and/or an Access Right.
Project Document	The PDA and LTESA, together with any other documents that are: <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>

Term	Definition
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 2 details.
Project Merit Criteria	Non-financial value criteria described in Section 4.2.1 of these Guidelines, reflecting the definition of “non-financial value criteria” in the EII Regulation.
Project Shortlist	Selected shortlist to progress to the Financial Value Bid stage, based on assessment against the Project Merit Criteria.
Proponent	An entity or person registered to participate, and participating in a Tender Round for the award of a Product, who will enter into the Tender Process Deed and is responsible for that entity or person’s Project Bid and Financial Value Bid, including as a consortium, and 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.
Related Body Corporate	Has the meaning given in the <i>Corporations Act 2001</i> (Cth), but on the basis that ‘subsidiary’ means another entity which is a subsidiary of the first entity within the meaning of the <i>Corporations Act 2001</i> (Cth), provided that a trust may be a subsidiary (and an entity may be a subsidiary of a trust) if it would have been a subsidiary under this definition if that trust were a body corporate. For these purposes, a unit or other beneficial interest in a trust is to be regarded as a share.
Reliability Standard	As defined in the EII Act.
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	A ‘renewable energy zone’ under the EII Act.
REZ Declaration	As defined in Section 6.11.1 of these Guidelines.
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 EnergyCo.
Risk Management Framework	The ‘risk management framework’ developed by the Consumer Trustee pursuant to EII Act, section 51.

Term	Definition
Roadmap or NSW Electricity Infrastructure Roadmap	The 'Electricity Infrastructure Roadmap', prepared by the NSW Government and enabled by the EII Act, as further described in Section 6.1 of these Guidelines.
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 of these Guidelines.
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 of these Guidelines to be awarded the relevant Project Documents.
SNW sub-region	Sydney-Newcastle-Wollongong sub-region, as defined in the diagram in A1 – EST contribution factor calculation assumptions
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, including the Consortium Process Deed.
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.

Term	Definition
Total Merit Score	As defined in Section 3.1.6 of these Guidelines.
Total Project Contract Value	The summation of all the costs that the Proponent has to pay to deliver the Project exclusive of GST.
Unserviced energy or USE	As defined in the NER, as applicable to the NSW region (as defined in the NER).
Validity Period	The period of 120 days, commencing from the Financial Value Bid Closing Date and Time, or such other period of time as may be notified by the Consumer Trustee.
Wholesale Demand Response	As defined in the LTESA.



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