



Australian Government

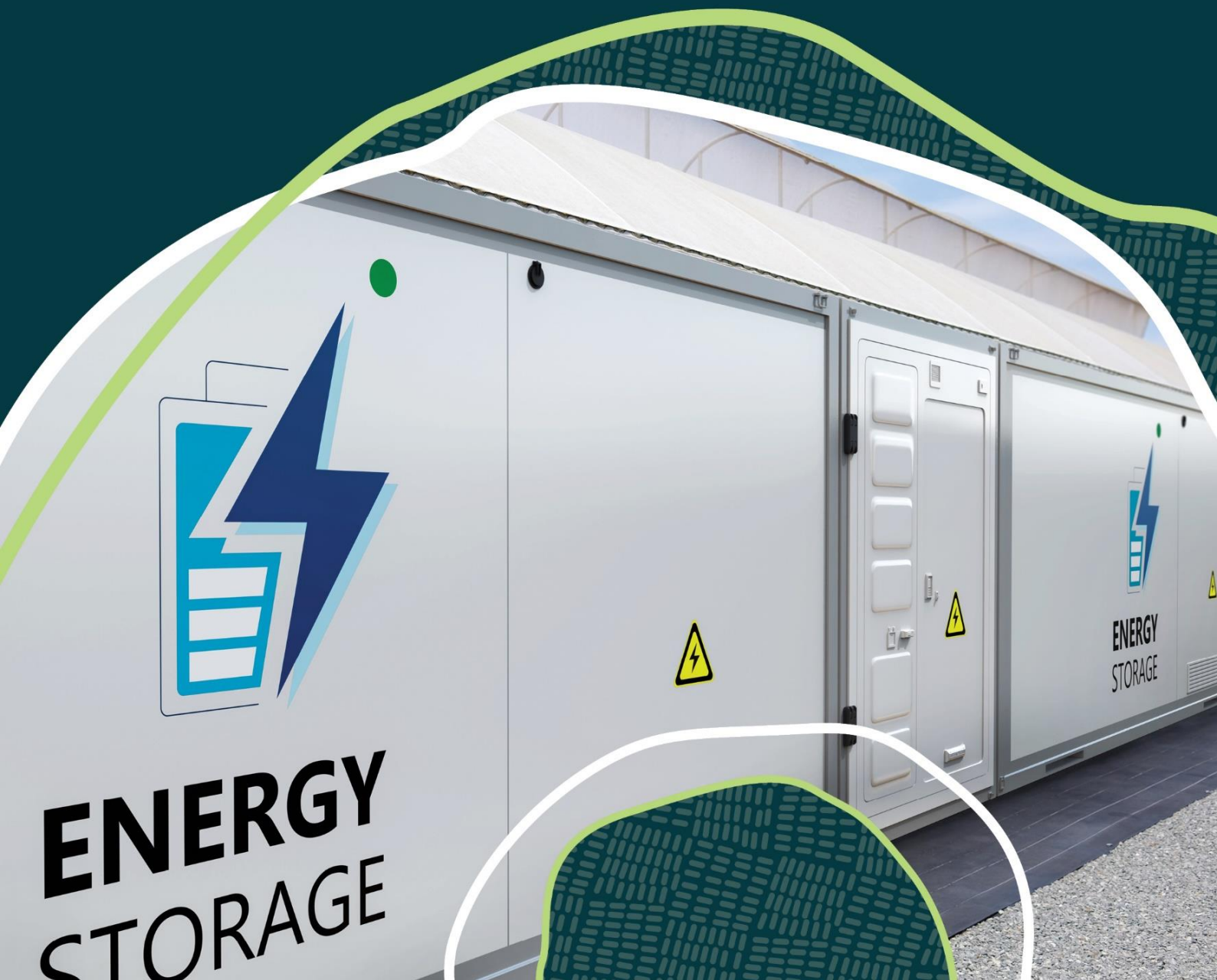
Department of Climate Change, Energy,  
the Environment and Water

# Capacity Investment Scheme

## Tender 3: National Electricity Market – Dispatchable Capacity

### Tender Guidelines

November 2024



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This publication is available at <https://aemoservices.com.au/tenders/cis-tender-3-nem-dispatchable>.

Capitalised terms are as defined in the Glossary at Section 6 of these Tender Guidelines.

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### Disclaimer

The objective of the Tender Process is for the Australian Government to receive offers from persons that are interested in undertaking dispatchable capacity projects located in the National Electricity Market and that have the capacity, capability and experience to do so. These Tender Guidelines have been prepared to assist those persons interested in submitting a Bid (including Proponents and their Associates) to make their own evaluation of the Capacity Investment Scheme and do not purport to contain all the information required to do so.

These Tender Guidelines are not (and do not constitute) an offer. Subject to [Section 4.1](#), and without limiting the terms of the Process Deed Poll referred to in [Section 2.1.2](#), these Tender Guidelines are not intended to give rise to any contractual relationship. Proponents and their Associates must conduct (and must rely entirely on) their own independent investigations, reviews, analysis of the Tender Process, Tender Guidelines and the information otherwise provided during the Tender Process, and not on these Tender Guidelines themselves.

Laws applying to the CIS, any Project, and/or the Tender Process, may be subject to change. Further Laws (not yet made) may apply to the CIS, any Project and/or the Tender Process including after it commences. Proponents are expected to comply with any new or amended Laws throughout the Tender Process, including when amendments to any Laws take effect during the Tender Process. In this Tender Process, such new, amended or replaced Laws could include, for example, changes to the National Electricity Law (NEL) or the National Electricity Rules (NER).

These Tender Guidelines and/or the information in them may be subsequently amended, withdrawn, reissued, or supplemented at any time. These Tender Guidelines do not constitute legal or business advice and should not be relied on as a substitute for obtaining detailed advice about the NEL, the NER, or any other applicable Laws, regulatory documents, reports, procedures or policies.

The Australian Government and its Associates have taken care in the preparation of the information contained or referred to in these Tender Guidelines but cannot guarantee (and make no representation or warranty regarding) the completeness, accuracy, adequacy or currency of that information, or any information communicated or provided during the Tender Process. Accordingly, to the maximum extent permitted by Law, the Australian Government and its Associates involved in the preparation of these Tender Guidelines:

- (a) do not give any warranty or make any representation, express or implied, as to the completeness, accuracy, adequacy or currency of the information contained or referred to in these Tender Guidelines or any information which may be communicated or provided in connection with them or the Tender Process; 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, 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);
  - ii. any delay in the Australian Government or its Associates providing any such information; and/or
  - iii. the exercise of any discretion, delay to exercising any discretion, or the making of any decision, by the Australian Government or its Associates in relation to the Tender Process, including in the assessment of any Bid by a Proponent or its Associates.

### Confidentiality

Other than information regarding the CIS and these Tender Guidelines, in each case publicly disclosed on any Australian Government or AEMO website, all Disclosed Information is confidential information. Proponents, and their Associates, are subject to the confidentiality obligations set out in these Tender Guidelines and are not permitted to disclose, or to use any such information other than as permitted by, these Tender Guidelines. By continuing to read these Tender Guidelines, Proponents and their Associates will be taken to have accepted that confidentiality obligation.

### Acknowledgement of Country

Our department recognises the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge Aboriginal and Torres Strait Islander Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, and present.

# Welcome to the Capacity Investment Scheme

## Tender 3: NEM Dispatchable Capacity

These Tender Guidelines (**Tender Guidelines**) are a comprehensive resource containing the necessary information for participating in the Capacity Investment Scheme (**CIS**) Tender 3: National Electricity Market (**NEM**) Dispatchable Capacity (**Tender Process, Tender 3 or Tender 3 Process**).

The Australian Government issues the Tender Guidelines to provide information to prospective and actual Proponents and their Associates who plan to and do participate in the Tender.

### What is the Capacity Investment Scheme NEM Tender 3?

This Tender 3 is part of the Australian Government’s CIS. It is a competitive process to secure dispatchable capacity in the NEM.

The CIS is an Australian Government program to accelerate investment in new renewable energy generation, such as wind and solar, and clean dispatchable capacity, such as battery storage. The CIS comprises a series of competitive tenders for underwriting contracts to deliver 32 gigawatts (**GW**) of capacity by 2030, in order to help fill expected reliability gaps, as ageing coal-fired power stations retire and demand grows, place downward pressure on electricity prices, and to support the Australian Government’s 82% renewable electricity target by 2030.

CIS tenders will be held approximately every 6 months in the NEM, and approximately every 12 months in the Wholesale Electricity Market, until the end of 2026.

This Tender 3 is seeking an indicative target of 4 GW of four-hour equivalent dispatchable capacity, or 16 GWh of dispatchable capacity that will be operational before 31 December 2029, to support system reliability. This will include the following targets in NEM jurisdictions:

NEM Jurisdiction	Minimum Dispatchable Capacity target (GW / GWh) <sup>1</sup>
New South Wales ( <b>NSW</b> )	0.9 / 3.6
South Australia ( <b>SA</b> )	0.4 / 1.6
Victoria ( <b>Vic</b> )	1.0 / 4.0
Unallocated	1.7 / 6.8
<b>Total capacity target</b>	<b>4.0 / 16</b>

These specific allocations form part of the Australian Government’s Renewable Energy Transformation Agreements (**RETAs**) with jurisdictions, to provide incentives for investment in new dispatchable projects and achieve shared objectives in the transition to renewables dominated electricity generation. The jurisdictional allocations and the remaining 6.8 GWh of dispatchable capacity may be allocated to Projects across the NEM, based on a merit assessment of the Projects.

The Australian Government may determine whether a greater or lesser volume of dispatchable capacity is appropriate, when this change in volume is consistent with the Policy Objectives of the Tender 3 Process.

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<sup>1</sup> Subject to the assessed merit of projects.

# What to know for the Tender 3 Process





Key Element	Description
<b>Location</b>	Projects in this Tender 3 Process must be located in a Participating Jurisdiction of the NEM, as defined by the <a href="#">National Electricity Law (NEL)</a> .
<b>Minimum requirements</b>	Projects are required to have a minimum storage duration of 2 hours, a minimum size of 30 MW and meet the <a href="#">Eligibility Criteria (EC)</a> in Table 5.
<b>Technology Type</b>	<p>Projects must either store electricity by importing electricity from the grid (by purchasing electricity from the NEM), or from a fuel source that is an eligible renewable energy source.</p> <p>The Project's fuel source must either:</p> <ol style="list-style-type: none"> <li>be an eligible renewable energy source, as described in section 17 of the <i>Renewable Energy (Electricity) Act 2000</i> (Cth) and eligible to create large-scale generation certificates under that Act; or</li> <li>import electricity from the grid (by purchasing electricity from the NEM); or</li> <li>a combination of a. and b.</li> </ol> <p>EC 11 (in Table 5) provides further information on eligible fuel sources and ineligible technologies.</p>
<b>Hybrid Projects</b>	<p>Hybrid Projects are co-located generation and storage assets where both assets share a common connection point. Further information on Hybrid Projects is provided in <a href="#">Section 2.2.1</a>.</p> <p>Hybrid Projects may participate in either this Tender 3 Process, or alternatively, the Tender 4 Process, but not both. A Hybrid Project participating in this Tender 3 Process may only bid for a Dispatchable Capacity Investment Scheme Agreement (CISA). Proponents should refer to the terms in the CISA applicable to Hybrid Projects, as outlined in the drafting notes within the CISA.</p> <p>A Hybrid Project that is currently participating in Tender 1 – NEM Generation will be eligible to participate in this Tender 3 Process, subject to satisfying the Eligibility Criteria.</p>
<b>Commercial Operations Date (COD) Target Date</b>	<p><b>31 December 2029</b></p> <p>The COD Target Date is not an <a href="#">Eligibility Criterion</a> and will be assessed under <a href="#">Merit Criterion (MC) 6</a> during the Stage B assessment.</p> <p>Projects with an earlier COD Target Date during the Stage B assessment (MC 6), with milestones that are contractually enforceable, may be viewed favourably. Projects with a COD Target Date beyond 31 December 2029 may be considered of low merit and may not proceed to further assessment.</p> <p>Projects in NSW that have a COD Target Date of 1 July 2027 or earlier may be viewed more favourably.</p>
<b>First Nations and community engagement</b>	<p>First Nations and community engagement strategies and performance in practice will be assessed against <a href="#">MC 4</a> and <a href="#">MC 5</a>, respectively.</p> <p>First Nations peoples are important partners in the clean energy transition. The Australian Government is committed to meaningful engagement with First Nations peoples to achieve the Australian Government's energy transition priorities, while contributing to 'Closing the Gap'. The <a href="#">MC 4</a> assessment will be looking for evidence of respectful and productive engagement with First Nations communities, and how engagement and consultation activities have considered and/or incorporated feedback from First Nations communities during Project design, development and future implementation.</p> <p>The quality of community engagement undertaken by Proponents will be assessed in <a href="#">MC 5</a>.</p>
<b>First Nations Commitments and Social Licence Commitments</b>	<p>The Australian Government has a strong expectation that, as the energy transition develops, genuine and long-lasting economic and social partnerships must emerge between industry and communities to better support and seize the opportunities of a net-zero economy.</p> <p>First Nations Commitments and Social Licence Commitments will be assessed against <a href="#">MC 8</a> and <a href="#">MC 9</a> respectively. If a Proponent is successful in the Tender 3 Process, these commitments will become contractually binding in the CISA and will be subject to monitoring and enforcement conditions.</p> <p>Projects assessed as low merit against any individual Merit Criterion, including the First Nations Commitments and Social Licence Commitments, may be excluded from further assessment and not progress to the Financial Value Shortlist.</p>
<b>Policy Objectives</b>	<p>The key objectives of this Tender 3 Process include:</p> <ol style="list-style-type: none"> <li>supporting projects that can support system reliability;</li> <li>support the deployment of 9 GW of clean dispatchable capacity (four-hour equivalent) by 2030 to help deliver the Australian Government's 82% renewables target; and</li> <li>putting downward pressure on electricity prices in Australia's rapidly changing energy market.</li> </ol> <p>Contribution to system reliability will be assessed in <a href="#">MC 1</a>, and the overall value and benefits will be assessed in <a href="#">MC 6</a>.</p>

## **What Proponents bid for - Capacity Investment Scheme Agreements (CISA)**

The CISA will be a contract between a Successful Proponent and the Australian Government. The CISA will provide partial revenue support (90%) if a Project's revenue falls below an agreed floor. In turn, the CISA will also require Projects to pay a percentage of revenue to the Australian Government (50%) if revenue exceeds an agreed ceiling. These payments will be subject to an Annual Payment Cap.

To further understand the CISA and how it can support your Project, Proponents should familiarise themselves with the key commercial terms of the CISA before submitting a Bid. The draft CISA will be available on the AEMO Services website at [aemoservices.com.au](https://aemoservices.com.au).

# What Proponents need to know

Key stages in the Tender 3 Process		
Tender Step	Proponent requirements	Assessment
<i>Select the relevant hyperlink to learn more</i>		
 <b>Registration</b>	<p><b>Register to participate in the Tender Process.</b></p> <p>Registrations are now open. To register for the CIS and this Tender 3 Process, <a href="#">complete the registration form</a>. Each Project must be registered separately.</p> <p>Proponents can only register and submit one Project Bid per Project. If a Project has multiple potential configurations or designs (such as storage duration or nameplate capacity), it is a matter for the Proponent to select its preferred configuration prior to registering and submitting a Project Bid. A Hybrid Project participating in this Tender 3 Process may only bid for a Dispatchable CISA.</p> <p>Proponents must not submit a <b>Duplicative Bid</b>. If a Proponent submits Project Bids that are considered by AEMO to be Duplicative Bids, AEMO will accept the compliant Bid that was lodged last. Previously submitted Duplicative Bids will not be accepted and will not be assessed. If Proponents wish to change their Bid, they must notify AEMO via the Online Portal that they wish to withdraw their existing Bid, then:</p> <ol style="list-style-type: none"> <li>register a replacement Bid before the Registration Closing Date and Time; and</li> <li>submit a replacement Project Bid prior to the Project Bid Closing Date and Time.</li> </ol>	
 <b>Stage A Project Bid</b>	<p><b>Submit a completed Project Bid form online along with the required Returnable Schedules, attachments and other information necessary to demonstrate satisfaction of each of the <a href="#">Proponent and Project Eligibility Criteria (EC 1 to EC 17)</a> and the Stage A Merit Criteria (<a href="#">MC 1 to MC 5</a>).</b></p> <p><b>Provide executed Process Deed Poll.</b></p> <p><i>Stage A – Project Bid Merit Criteria</i></p> <ul style="list-style-type: none"> <li><a href="#">MC 1 – Contribution to system reliability and system benefits</a></li> <li><a href="#">MC 2 – Project deliverability and timetable</a></li> <li><a href="#">MC 3 – Organisational capability to deliver Project</a></li> <li><a href="#">MC 4 – First Nations engagement</a></li> <li><a href="#">MC 5 – Community engagement</a></li> </ul>	<p><b>Project Bid assessment</b></p> <p>Projects will be assessed against the Eligibility Criteria (EC 1 to EC 17). Eligible Projects will be assessed against MC 1 to MC 5 to develop the Project Shortlist.</p>
 <b>Stage B Financial Value</b>	<p><b>Projects on the Project Shortlist will be invited to submit:</b></p> <ul style="list-style-type: none"> <li>a Default Financial Value Bid, and may submit an Alternative Financial Value Bid via an online Financial Value Bid form with corresponding Returnable Schedules; and</li> <li>Project Documents that are in the form of an offer for acceptance by the Australian Government, complete and capable of execution during the Validity Period, except for, in the case where the Bid Entity will be a special purpose vehicle (SPV) that has not been established at that time, the Bid Entity's details and execution block.</li> </ul> <p>The Australian Government or AEMO may exercise their discretion under <a href="#">Section 4.28</a> of these Tender Guidelines to reject, refuse or cease to consider a Bid that fails to comply with the above requirements.</p> <p><i>Stage B – Financial Value Bid Merit Criteria</i></p> <ul style="list-style-type: none"> <li><a href="#">MC 6 – Financial value and system benefits</a></li> <li><a href="#">MC 7 – Commercial departures</a></li> <li><a href="#">MC 8 – First Nations Commitments</a></li> <li><a href="#">MC 9 – Social Licence Commitments</a></li> </ul> <p>For the avoidance of doubt, Proponents should consider commitments made under MC 8 and MC 9 to be binding under both the Default and Alternative Financial Value Bids.</p>	<p><b>Financial Bid Assessment</b></p> <p>Default and Alternative Financial Value Bids will be assessed against MC 6 to MC 9, to develop the Financial Value Shortlist.</p>
 <b>Stage C Due diligence &amp; Recommended Bids</b>	<p>Proponents may be requested to provide additional information, including information identified in <a href="#">Section 5</a>, and the Project Documents may be amended by the Australian Government to reflect issues identified during due diligence.</p> <p>A recommended list of Bids (<b>Recommended Bids</b>) will be provided by AEMO to the Australian Government based on the outcomes of the merit assessment, due diligence and consideration of CISA contract departures. The Minister for Climate Change and Energy (the <b>Minister</b>), on behalf of the Australian Government, will select the Successful Proponents and Projects.</p>	<p><a href="#">Due diligence</a> on Proponents and/or Projects may be undertaken.</p> <p><a href="#">Recommended Bids</a> will be provided to the Australian Government based on the outcomes of the tender assessment process.</p>

## Important Dates



**Registration and Stage A – Project Bid Commencement Date**  
13 November 2024



**Stage A – Q&A Process opens**  
19 November 2024



**Registration and Stage A – Q&A Closing Date and Time**  
11 December 2024 at 5:00 pm AEDT



**Stage A – Project Bid Closing Date and Time**  
18 December 2024 at 5:00 pm AEDT



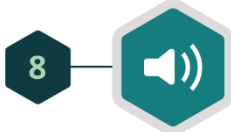
**Invitation to submit Stage B – Financial Value Bid**  
March 2025\*



**Stage B – Q&A Process opens**  
May 2025\*



**Stage B – Financial Value Bid Closing Date and Time**  
May 2025\*



**Announce Successful Bids**  
September 2025\*

*\*NOTE: These dates are indicative and final dates will be communicated via the Online Portal. The relevant time associated with these dates will be provided through those communications.*

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# 1 About the CIS

The CIS is an Australian Government program to accelerate new investment in renewable capacity, such as wind and solar, and clean dispatchable capacity, such as battery storage, to support Australia’s energy transition that will:

- contribute to filling expected reliability gaps, as ageing coal-fired power stations retire and electricity demand grows;
- place downward pressure on electricity prices; and
- help deliver the Australian Government’s target of 82% renewable electricity by 2030 and emissions reduction commitments under the Paris Agreement of 43% below 2005 levels by 2030.

The target of 32 GW of new capacity nationally under the expanded CIS is made up of:

- 23 GW of renewable energy generation capacity, representing \$52 billion in investment; and
- 9 GW of clean dispatchable capacity (four-hour equivalent), representing \$15 billion in investment.

This Tender 3 Process is an Australian Government initiative as part of the CIS. The Australian Government promotes the proper (including efficient, effective, economical and ethical) use and management of public resources in accordance with the *Public Governance, Performance and Accountability Act 2013* (Cth). This Tender 3 Process is not a procurement for the purposes of the [Commonwealth Procurement Rules](#) and not a grant for the purposes of the [Commonwealth Grant Rules and Guidelines](#). However, to ensure that the Tender 3 Process is aligned with Australian Government procedures, the Australian Government has specified in these Tender Guidelines (including [Section 5](#)) certain Australian Government policies and other requirements that will apply to the Tender 3 Process.

## 1.1 Tender governance and decision-making

This Tender 3 Process is being conducted using robust and transparent processes to ensure market trust in the CIS.

The Australian Government has engaged AEMO Limited, and its independent subsidiary AEMO Services Limited, (together **AEMO**) as service providers to administer this competitive Tender Process, including to recommend Bids to the Australian Government consistent with these Tender Guidelines. The Australian Government and AEMO may consult, throughout the Tender Process, with respect to the Bids progressed during the Tender Process, and the Recommended Bids.

Australian Government	AEMO
Sets the Policy Objectives, the objective of the Tender Process, the commercial in-confidence financial budget, the tender size and the terms of the CISA.	Administers this competitive Tender Process (including communicating with Proponents <sup>2</sup> ).

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<sup>2</sup> Proponents should direct any communications relating to the Tender Process to AEMO in accordance with these Tender Guidelines, and as outlined in [Section 4.39](#).

Australian Government	AEMO
The Minister, on behalf of the Australian Government, will select the Proponents and Projects to receive revenue support under the CIS, having regard to the recommendation of AEMO.	Make recommendations consistent with these Tender Guidelines to the Australian Government.

The above does not prevent the Australian Government or any other relevant Commonwealth entity from administering, exercising its rights and powers, and performing its obligations, that exist in relation to the CIS, including those set out in these Tender Guidelines. To the extent that there is ambiguity, discrepancy or inconsistency between an action or statement of the Australian Government, and an action or statement of its service providers, the action or statement of the Australian Government will prevail.

The Australian Government will notify Proponents in writing if AEMO ceases to provide services to administer this Tender 3 Process, or if there are any material changes to the role of AEMO that the Australian Government, in its absolute discretion, considers relevant to Proponents.

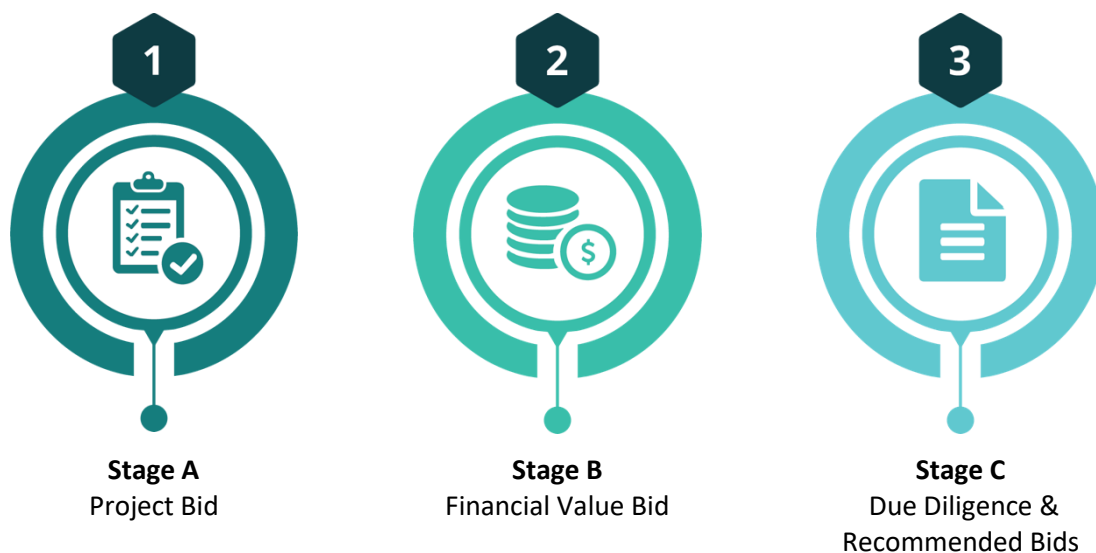
## 2 Tender and assessment process

This section outlines the tender and assessment process that will apply to all Proponents and Projects.

Proponents and Projects participating in this Tender Process are required to demonstrate compliance with the Eligibility Criteria (EC) before they may be competitively assessed against the Merit Criteria (MC).

The Tender Process outlined in these Tender Guidelines may be varied, suspended or cancelled in accordance with the [Tender Conditions](#). Any such decisions will be made at the absolute discretion of the Australian Government or AEMO, and communicated to registered Proponents via the [Online Portal](#) and on the [AEMO Services website](#).

An overview of the intended Tender Process is illustrated below.



### 2.1 Tender Process

#### 2.1.1 Registration

Registration is the first step in the Tender Process and must be completed before a Project Bid may be submitted. To register a Project, Proponents must create an account via the [Online Portal](#). Successfully registered Proponents will be notified via the Online Portal of any changes made to the Tender Process.

Registrations commence on the [Stage A – Project Bid Commencement Date](#) and close on the [Registration Closing Date and Time](#).

If a Project has multiple potential configurations or designs (such as storage duration or nameplate capacity), it is a matter for the Proponent to select its preferred configuration before registering and submitting a Project Bid.

A Bid will be considered a Duplicative Bid if it is in respect of essentially the same Project as another Bid from the same Proponent or its Associates, and only has changes to the configuration or design (such as storage duration or nameplate capacity).

If a Proponent submits Project Bids that are considered by AEMO to be Duplicative Bids, AEMO will accept the compliant Bid that was submitted last. Duplicative Bids submitted earlier will not be accepted and will not be assessed. Accordingly, if Proponents wish to change their Bid, they must notify AEMO via the Online Portal that they wish to withdraw their existing Bid, then:

- a. register a replacement Bid before the Registration Closing Date and Time, and
- b. submit a replacement Project Bid prior to the Project Bid Closing Date and Time.

Changes to the identity or corporate structure of a Proponent following registration will only be accepted if made in accordance with the [Tender Conditions](#). The Australian Government or AEMO may, in their absolute discretion, impose additional requirements for such changes, including the provision of further information or execution of additional process deed polls by any relevant entities.

### **2.1.2 Submission of Bids and documents**

Successfully registered Proponents must submit their Bids in two stages: Stage A – Project Bid, and, if invited, Stage B – Financial Value Bid. Bids must be submitted via the Online Portal and include the completed Project Bid form, Financial Value Bid form, relevant Returnable Schedules and other specified documents.

Further details on the information relating to the treatment of Hybrid Project Bids, and supporting documents required at each Bid stage, are provided in this Section 2 and Section 3. Information on the Tender Process for New South Wales (NSW) Projects is provided in [Section 3.3](#).

#### **Process Deed Poll**

Proponents seeking to participate in the Tender Process must execute a Process Deed Poll in favour of the Australian Government and AEMO. The Process Deed Poll must be provided as a Returnable Schedule, and must be executed and submitted with the Proponent's Project Bid in Stage A.

The Process Deed Poll will include, amongst other things:

- a) an acknowledgment that the relevant entity accepts and is bound by the Tender Guidelines;
- b) a warranty that the Proponent has, and its Associates have, complied with the Tender Guidelines in respect of its and their participation in the Tender Process; and
- c) a warranty as to the truth and accuracy of the information submitted by the Proponent.

The Australian Government or AEMO may, in their absolute discretion, at any stage of the Tender Process including after Project Bids have been submitted, also require a Process Deed Poll to be submitted by one or more of the Proponent's Consortium Members and/or their Related Bodies Corporate and if requested to do so, the Proponent must procure that the relevant Consortium Member(s) and/or Related Bodies Corporate provide an executed Process Deed Poll to AEMO.

#### **Accuracy of information**

The Proponent and its Consortium Members must provide accurate, complete and current declarations, warranties and information in all documents provided by them as part of this Tender 3 Process, as outlined in [Section 4.16](#).

## Q&A Process

An online question-and-answer period (**Q&A Process**) will operate to ensure fair and equitable access to information. Proponents may submit clarification questions to the Online Portal no later than five (5) 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. Reasonable endeavours will be made to answer questions within five (5) Business Days after receipt of the relevant question (subject to the number, materiality and complexity of questions received) and to share de-identified questions and clarifications publicly via the [AEMO Services website](#).

Please note that, subject to the items below and [Section 4.13](#):

- Responses will be made publicly available via the AEMO Services website (without identifying the Proponent that submitted the relevant question) and will be distributed to all registered Proponents via the Online Portal.
- If a Proponent does not wish a question or response to be made available, it must identify the question as 'commercially sensitive – not for circulation', together with an explanation of why the information is Project-specific and sensitive.
- A determination will be made by AEMO as to whether to answer a question, and whether to circulate the response, or a generic and/or deidentified version of the response, to all actual and prospective Proponents. Probity advice may be sought to guide these decisions.

## Communications

Refer to [Section 4.39](#) of the Tender Conditions for guidance on communications during the Tender Process.

## Late Bids

A Project Bid received after the Project Bid Closing Date and Time, or a Financial Value Bid received after the Financial Value Bid Closing Date and Time, (**Late Bid**) will only be accepted at the absolute discretion of AEMO. For example, a Late Bid may be admitted for assessment if:

- actions or omissions by AEMO caused the delay in submission; or
- the Proponent can clearly document to the satisfaction of AEMO that an event of exceptional circumstances caused the Bid to be lodged after the relevant Closing Date and Time and that the integrity of the Tender Process will not be compromised by accepting a Project Bid after the relevant Closing Date and Time.

AEMO is under no obligation to exercise its discretion to accept a Late Bid or to disclose to any Proponent or any of their respective Associates the acceptance of another Proponent's Late Bid(s).

## Extensions

Extensions of time, including in relation to dates and times published in the Tender Process, may be granted at the absolute discretion of AEMO.


**Obligation to notify of errors**

If, after any Bid has been submitted, the relevant Proponent (or any of its Associates) becomes aware of an error in the relevant Bid (including an error in pricing but excluding clerical errors that would have no bearing on the evaluation of the Bid), the Proponent must promptly notify AEMO via the [Online Portal](#) of such error.

## 2.2 Stage A – Project Bid

From the Stage A – Project Bid Commencement Date, registered Proponents will receive access to the application information needed to complete their Project Bids via the Online Portal. Proponents should read [Section 3](#) to complete their Stage A – Project Bid.

### Information to complete

Tender Step	Proponent requirements
Select the relevant hyperlink to learn more.	
 <p><b>Stage A Project Bid</b></p>	<p><b>Submit a completed Project Bid form online along with the required Returnable Schedules, attachments and other information necessary to demonstrate satisfaction of each of the <a href="#">Proponent and Project Eligibility Criteria</a> (EC 1 to EC 17) and the Stage A Merit Criteria (<a href="#">MC 1 to MC 5</a>).</b></p> <p><b>Provide executed Process Deed Poll.</b></p> <p><i>Stage A – Project Bid Merit Criteria</i></p> <ul style="list-style-type: none"> <li>• <a href="#">MC 1 – Contribution to system reliability and system benefits</a></li> <li>• <a href="#">MC 2 – Project deliverability and timetable</a></li> <li>• <a href="#">MC 3 – Organisational capability to deliver Project</a></li> <li>• <a href="#">MC 4 – First Nations engagement</a></li> <li>• <a href="#">MC 5 – Community engagement</a></li> </ul>

As part of the Stage A – Project Bid submission, Proponents may submit a Returnable Schedule of indicative departures from the draft Project Documents, including the rationale for each indicative departure.

This is not mandatory. The table of indicative departures will not form part of the Stage A – Project Bid assessment. Instead, the table of indicative departures from the draft Project Documents will be considered by the Australian Government and AEMO to determine whether any further amendments will be made to the Project Documents before Stage B – Financial Value Bid commences.

### 2.2.1 Stage A – Project Bid assessment

The purpose of the Project Bid assessment is to select a shortlist of Project Bids (**Project Shortlist**) to progress to Stage B – Financial Value Bid.

#### Assess Eligibility Criteria

Proponents and their Project Bids:

- will be assessed against the Proponent Eligibility Criteria and Project Eligibility Criteria (EC 1 to EC 17).
- must satisfy each Eligibility Criterion to progress to assessment against MC 1 to MC 5.
- that do not meet all Eligibility Criteria in accordance with [Section 3.1](#) will not be considered further in the Tender 3 Process.
- must continue to satisfy the Eligibility Criteria throughout the Tender 3 Process. Non-compliance with the Eligibility Criteria will render their Bid ineligible.

#### Assess Stage A – Project Bid Merit Criteria

Proponents and their relevant Project Bids that satisfy the Eligibility Criteria will be assessed and scored against the Stage A – Project Bid Merit Criteria. Proponents are required to provide evidence to support their responses to each of the Merit Criteria when submitting a Project Bid. A list of required Returnable Schedules and expected attachments is provided in [Section 3.2.1](#).



Project Bids that are assessed as low merit against any individual Merit Criterion may not be further assessed and may not be included on the Project Shortlist. Accordingly, it is possible that a Project Bid that ranks, or would have ranked, highly on the ranked list based on its overall weighted score for Stage A (see below) may not be included on the Project Shortlist if it receives a low score on an individual Project Bid Merit Criterion.

Following the Stage A assessment, an overall weighted score will be developed for each Project Bid that has not been excluded, using the weightings in Table 1. Project Bids will be ranked based on overall weighted scores for Stage A, and the Project Shortlist will be developed considering the ranked list.

In developing the Project Shortlist, AEMO may, in its discretion, consider whether to include a lower ranked Project Bid on the Project Shortlist, under circumstances that may include (but are not limited to):

- when a Project located in one jurisdiction is preferred over a higher or similarly ranked Project in another jurisdiction to ensure sufficient competition for the target volume of capacity in each jurisdiction; or
- when Projects on the Project Shortlist collectively give rise to lower system reliability benefits, geographic, Proponent, or supplier concentration risks, and shortlisting additional Projects would mitigate this risk. For example, when a single Proponent has multiple Projects; when a single contractor is supporting multiple Proponents; or when multiple Projects are concentrated in one geographic region; or
- when a lower ranked Project better aligns with the Policy Objectives.

**Table 1 Stage A – Project Bid Merit Criteria weightings**

Merit Criteria	Weighting
MC 1 – Contribution to system reliability and system benefits	20%
MC 2 – Project deliverability and timetable	30%
MC 3 – Organisational capability to deliver Project	20%
MC 4 – First Nations engagement	15%
MC 5 – Community engagement	15%
Overall Weighting for Stage A	100%

### **Treatment of Hybrid Projects**

Hybrid Projects are co-located generation and storage assets where both assets share a common connection point. The Proponents of Hybrid Projects may enter into either a Generation CISA or a Dispatchable CISA, but not both. A Hybrid Project that is currently participating in Tender 1 – NEM Generation will be eligible to participate in this Tender 3 Process, subject to satisfying the Eligibility Criteria.

Similarly, a Hybrid Project may choose to participate in either this Tender 3 Process, or alternatively, the Tender 4 Process, but not both. For this Tender 3, a Hybrid Project may bid as a dispatchable Project. This means:

- the Associated Project (in this case, the generation asset component of the Hybrid Project) will not be included in the assessment of the Proponent's Bid. The principles by which this will be achieved are described in [Section 3.2](#).
- the Proponent is under no obligation to deliver the Associated Project under the terms of the Dispatchable CISA.

Further information on Hybrid Projects, as they relate to the Generation CISA, will be provided in the Tender 4 Guidelines. Should a Proponent wish to withdraw its Project Bid submission from this Tender 3 and participate in the Tender 4 Process, this must be completed prior to the Tender 4 Registration Closing Date and Time. To officially withdraw from this Tender 3 Process and participate in the Tender 4 Process, the Proponent is required to undertake the following actions:

- Notify AEMO through the [Online Portal](#) of its withdrawal; and
- Register to submit a new Bid in the Tender 4 Online Portal before the Registration Closing Date and Time, subject to the terms and conditions of the Tender 4 Process.

If a Proponent submits a Bid for the same Project in both the Tender 3 and Tender 4 Processes, without following the withdrawal process mentioned above, AEMO will accept the compliant Bid that was lodged last. The previously submitted Bid will be excluded from the relevant tender process.

**Eligible Hybrid Projects for the Tender 3 Process are those for which:**

- all assets have the same Connection Point; and
- the Project, the Associated Project and the Shared Infrastructure are owned by the same SPV.

A Project that combines multiple new dispatchable capacity assets (e.g. BESS and pumped hydro) with a common connection point or standalone concentrated solar thermal assets will be treated as a single Project, and not considered a Hybrid Project, for the purposes of this Tender 3 Process. The Proponent and the single Project will need to satisfy the Eligibility Criteria to participate in this Tender 3 Process.

**Projects with separate Connection Points**

Projects that have separate Connection Points for generation and dispatchable capacity are considered separate Projects for the purposes of this Tender 3 Process. The dispatchable capacity components of these Projects will be eligible to bid in this Tender 3 Process.

**Treatment of Staged Projects**

A 'Staged Project' refers to a Project that adds a new dispatchable asset to an existing dispatchable asset, where both the existing dispatchable asset and the new dispatchable asset will share a common connection point and may share some common existing infrastructure.

For the purposes of this Tender 3 Process, if a Proponent proposes a Staged Project:


- the Project excludes the existing dispatchable asset and existing shared infrastructure;
- the Project will need to, in its own right, satisfy the Eligibility Criteria; and
- benefits in each Merit Criterion will be assessed for the Project only, and not the existing dispatchable asset or existing shared infrastructure.

## 2.3 Stage B – Financial Value Bids

The Project Shortlist will be invited to submit a Financial Value Bid, comprised of the Financial Value Bid form, the relevant Returnable Schedules and required attachments. Invited Proponents should read [Section 3](#) to complete their Stage B – Financial Value Bid.

The Project Shortlist will be assessed and scored against the Stage B – Financial Value Bid Merit Criteria (MC 6 to MC9).

### Information to complete

Tender Step	Proponent requirements
Select the relevant hyperlink to learn more	
 <p><b>Stage B Financial Value</b></p>	<p><b>Projects on the Project Shortlist will be invited to submit:</b></p> <ul style="list-style-type: none"> <li>• a Default Financial Value Bid, and may submit an Alternative Financial Value Bid via an online Financial Value Bid form with corresponding Returnable Schedules; and</li> <li>• Project Documents that are in the form of an offer for acceptance by the Australian Government, complete and capable of execution during the Validity Period, except for, in the case where the Bid Entity will be an SPV that has not been established at that time, the Bid Entity’s details and execution block.</li> </ul> <p>The Australian Government or AEMO may exercise their discretion under <a href="#">Section 4.28</a> of these Tender Guidelines to reject, refuse or cease to consider a Bid that fails to comply with the above requirements.</p> <p><b>Stage B – Financial Value Bid Merit Criteria</b></p> <ul style="list-style-type: none"> <li>• <a href="#">MC 6 – Financial value and system benefits</a></li> <li>• <a href="#">MC 7 – Commercial departures</a></li> <li>• <a href="#">MC 8 – First Nations Commitments</a></li> <li>• <a href="#">MC 9 – Social Licence Commitments</a></li> </ul> <p>For the avoidance of doubt, Proponents should consider commitments made under MC 8 and MC 9 to be binding under both the Default and Alternative Financial Value Bids.</p>

### 2.3.1 Stage B – Financial Value Bid assessment

The purpose of the Stage B – Financial Value Bid assessment is to assess the Bids submitted by the invited Project Shortlist to develop a shortlist of Financial Value Bids (**Financial Value Shortlist**). Proponents should provide evidence to support their responses to the Merit Criteria when submitting a Financial Value Bid. A list of required Returnable Schedules and expected attachments is provided in [Section 3.2.2](#).

#### Assess Stage B – Financial Value Bid Merit Criteria

The Project Shortlist will be assessed and scored against the Stage B – Financial Value Bid Merit Criteria (MC 6 to MC 9).

#### Default Financial Value Bids and Alternative Financial Value Bids

At Stage B – Financial Value Bid, Proponents must submit a Default Financial Value Bid. To provide flexibility and encourage commercial innovation, Proponents may also submit an Alternative Financial Value Bid, in addition to a Default Financial Value Bid, in which the permitted Bid Variables are adjusted. 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 Stage B – Financial Value Bid Merit Criteria.

The Default and Alternative Financial Value Bids must be identical other than amendments to the Bid Variables outlined in Table 2.

**Table 2 Key Commercial Terms and Bid Variables**

Key commercial terms (unit) <sup>3</sup>	Default Financial Value Bid or Alternative Financial Value Bid
Final Support End Date (date)	<b>Bid Variable</b> Maximum of 15 years after the Support Start Date
<b>Bid prices</b>	
Annual Floor (\$ per annum)	<b>Bid Variable</b> Provided as a fixed Annual Floor, or a schedule of Annual Floors in fixed nominal dollars, for each nominated Financial Year of support over the contract term.*
Annual Ceiling (\$ per annum)	<b>Bid Variable</b> Provided as a fixed Annual Ceiling, or a schedule of Annual Ceilings in fixed nominal dollars, for each nominated Financial Year of support over the contract term.*
Annual Payment Cap (\$ per annum)	<b>Bid Variable</b> Provided as a fixed Annual Payment Cap, or a schedule of Annual Payment Caps in fixed nominal dollars, for each nominated Financial Year of support over the contract term.*
Revenue Floor Support Percentage (%)	90%
Revenue Ceiling Sharing Percentage (%)	50%

\* Proponents should note the specific requirements for these Bid Variables in the Reference Details in the draft CISA.

AEMO may, in its absolute discretion, amend or request that Proponents amend the permitted Bid Variables, or number of Alternative Financial Value Bids, at any stage of the Tender Process. In these cases, all Proponents at the relevant stage of assessment will be notified of the conditions and timeframe to prepare their Alternative Financial Value Bids.

### Develop Financial Value Shortlist

Each Financial Value Bid for a Project will be assessed against the same Financial Value Bid Merit Criteria. If two Financial Value Bids are submitted in respect of a Project, only the higher merit Bid may be progressed in the assessment and may be included on the Financial Value Shortlist.

Financial Value Bids assessed as being of:

- **low merit** against any individual Financial Value Bid Merit Criterion may not be further assessed and may not be included on the Financial Value Shortlist. Accordingly, it is possible that a Financial Value Bid that ranks, or would have ranked, highly on the ranked list based on its overall weighted score for Stage B (see below) may not be included on the Financial Value Shortlist if it receives a low score on an individual Financial Value Bid Merit Criterion. In determining whether a Financial Value Bid is assessed as low merit against MC 6, consideration will also be given to NEM average prices.
- **high merit** may be included on the Financial Value Shortlist in accordance with the process described below.

<sup>3</sup> All terms used in this Table 2 are defined in the draft CISA available on the [AEMO Services website](#). Where there is an inconsistency between the meaning of a definition used in Table 2 and the CISA, the definition in the CISA will prevail, to the extent of the inconsistency.

Following the assessment of Projects against MC 6 to MC 9, a weighted score will be developed for each Financial Value Bid. Bids that have not been excluded will then be ranked based on overall weighted scores for Stage B, and the Financial Value Shortlist will be developed in consideration of this ranked list. The weighting scheme for this ranking process is highlighted in Table 3.


**Table 3 Stage B – Financial Value Bid Merit Criteria weightings**

Merit Criteria	Weighting
MC 6 – Financial value and system benefits	60%
MC 7 – Commercial departures	10%
MC 8 – First Nations Commitments	15%
MC 9 – Social Licence Commitments	15%
<b>Overall Weighting for Stage B – Financial Value</b>	<b>100%</b>

In developing the Financial Value Shortlist, AEMO may, in its discretion, consider whether to include a lower ranked Bid on the Financial Value Shortlist, in circumstances that may include (but are not limited to) when:

- the Projects on the Financial Value Shortlist collectively give rise to lower system reliability benefits, geographic, Proponent, or supplier concentration risks. For example, when a single Proponent has multiple projects; when a single contractor is supporting multiple Proponents; or when multiple Projects are concentrated in one geographic region.
- a Project located in one jurisdiction is preferred to a higher or similarly ranked Project in another jurisdiction, in order to meet the sub-targets allocated to each jurisdiction or to avoid concentration of Projects in one or the other jurisdiction. In determining whether or not to preference a lower or similarly ranked Project in another jurisdiction to meet the sub-targets allocated to each jurisdiction, consideration may be given to a Financial Value sensitivity of a Project based on average NEM price forecasts, rather than the price forecasts of the Project’s own region, all else being equal.
- a lower or similarly ranked Project better aligns with the Policy Objectives. For Projects in NSW, in addition to the alignment with the Policy Objectives, this also means alignment with Section 48(3) of the *Electricity Infrastructure Investment Act 2020* (NSW).
- the Projects on the Financial Value Shortlist collectively comprise a concentration of Projects with a higher overall risk profile, including, but not limited to, high financial and/or delivery risks. In assessing the overall risk of a Project, the score, Bid responses and supporting evidence from Stage A may be taken into consideration in determining if the Project should remain on the Financial Value Shortlist.

## 2.4 Stage C – Due diligence and Recommended Bids

Tender Step	Proponent requirements
<b>Select the relevant hyperlink to learn more</b>	
 <p><b>Stage C</b> <b>Due diligence &amp; Recommended Bids</b></p>	<p>Proponents may be requested to provide additional information, including information identified in <a href="#">Section 5</a>, and the Project Documents may be amended by the Australian Government to reflect issues identified during due diligence.</p> <p>A recommended list of Bids (<b>Recommended Bids</b>) will be provided by AEMO to the Australian Government based on the outcomes of the merit assessment, due diligence and consideration of CISA contract departures. The Minister, on behalf of the Australian Government, will select the Successful Proponents and Projects.</p>

### Due diligence

Due diligence may be undertaken on Bids at any time – activities may include:

- Commissioning or completing relevant research, analysis and modelling to support assessment of Project or Financial Value Bids.
- Contacting any relevant Australian Government, State or Territory Government or other relevant parties about a Bid, Project, or Proponent.
- Seeking information from third-parties to validate information provided by all Proponents relating to the progress of a Project and expected commissioning timeframes. This includes, but is not limited to, information from the relevant network service provider, AEMO connections, the relevant local council and/or the State/Territory planning authority.
- In respect of Bids included on the Financial Value Shortlist:
  - compliance of the Proponent (and the Bid Entity if different) and their direct and indirect owners with ECs 2, 3, 4, 5 and 6 (and, in the case of the direct and indirect owners, as if the relevant direct or indirect owner was a Proponent or Bid Entity, if different).
  - confirmation of continuing compliance with the Eligibility Criteria.
  - re-assessment of any or all Merit Criteria.
- A detailed assessment of Project delivery risks against the development milestones bid by the Proponent, corporate and financial capacity and viability assessment and confirmation of compliance with Foreign Investment Review Board and relevant work health and safety and other regulatory and government policy requirements.
- A review and assessment of further information to be submitted by the Proponent including information identified in [Section 5](#).

Bids that are the subject of adverse due diligence findings may be excluded from further consideration, or, in respect of Bids included on the Financial Value Shortlist, excluded from selection as a Recommended Bid at the absolute discretion of AEMO. AEMO may, but is under no obligation to, seek a response from a Proponent in relation to such an adverse due diligence finding prior to deciding whether to exercise its discretion to exclude a Project or Financial Value Bid from further consideration.

### Recommended Bids

The Australian Government may negotiate with Proponents on proposed Project Document departures. AEMO will make recommendations to the Australian Government about the Recommended Bids, consistent with these Tender Guidelines.

## 2.5 Selection of Successful Proponents

The Australian Government, through the Minister, will select the Successful Proponents.

Successful Proponents will be notified by the Australian Government that it intends to enter into the Project Documents with the Successful Proponent, on terms that are satisfactory to the Australian Government, and on any other conditions set out in other Project Documents. The Australian Government may negotiate with Proponents on proposed Project Document departures. A Proponent is bound by its Bid and, if selected as a Successful Proponent, must enter into Project Documents on the basis of the Bid, subject to any amendments agreed with the Australian Government.

The selection of a Proponent as a Successful Proponent does not of itself give rise to an express or implied contract between the Successful Proponent and the Australian Government to provide financial support to the Successful Proponent regarding the relevant Project. No legal relationship will arise between the Successful Proponent and the Australian Government (regarding the Australian Government providing financial support to the Successful Proponent for the relevant Project) until such time as a binding contract (in the form of the finalised Project Documents) is executed by the parties. The Australian Government, including the Minister, is under no obligation to enter into a contract with a Successful Proponent or any other person. This paragraph is without prejudice to the tender process contract formed between the Australian Government and a Proponent pursuant to [Section 4.1](#) of these Tender Guidelines and the Process Deed Poll.

## 3 Assessment criteria and Bid documentation

The assessment criteria comprise the Eligibility Criteria and the Merit Criteria. This section outlines the information and supporting documentation requirements for each Eligibility Criterion and Merit Criterion.

Proponents should ensure that all the requested supporting documentation is provided in their response to each Eligibility Criterion and Merit Criterion.

The Project Bid form, Financial Value Bid form and relevant Returnable Schedules will be made available to Proponents for populating as specified.

It is the responsibility of a Proponent to ensure that its Bid addresses each of the Eligibility Criteria and Merit Criteria. Bids should not rely on links to external documents or websites, and information available via any such links may not be viewed during assessment.

[Section 3.3](#) contains additional information on how NSW Projects will be assessed in the Tender 3 Process.

### 3.1 Eligibility Criteria

The Proponent Eligibility Criteria and Project Eligibility Criteria are listed in Table 4 and Table 5, respectively. Proponents must propose one Bid Entity (see EC 7) and should also refer to the information contained in [Section 4.24](#) of the Tender Conditions for the requirements of a Proponent. If the Proponent is not going to be the Bid Entity, 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 EC 7).

If a Bid Entity is established after registration for this Tender 3 Process, but before submission of a Project Bid, the Proponent must also provide equivalent information demonstrating that the newly established Bid Entity also meets the Proponent Eligibility Criteria (other than EC 7).

The Proponent must provide information as part of its Project Bid which demonstrates that the Proponent and its Project meets all of the listed Eligibility Criteria. Project Bids submitted by Proponents that do not meet all of the Eligibility Criteria will not be further assessed.

Proponents will be required to confirm compliance with each of the Eligibility Criteria via the Online Portal during Stage A – Project Bid.



**Table 4 Proponent Eligibility Criteria**

Item	Criteria
EC 1	<p>The Proponent must:</p> <ol style="list-style-type: none"> <li>a) at the time of submitting the Project Bid, hold an Australian Business Number (<b>ABN</b>) and</li> <li>b) be one of the following: <ul style="list-style-type: none"> <li>• an Australian entity incorporated under the <i>Corporations Act 2001</i> (Cth);</li> <li>• a Commonwealth entity, as described in section 10 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth) (<b>Commonwealth Entity</b>);</li> <li>• an Australian State or Territory owned (wholly or partly) corporation or a subsidiary of a State or Territory owned (wholly or partly) corporation; or</li> <li>• an Australian local government or council or an Australian organisation that has the purpose of representing and supporting local governments or councils.</li> </ul> </li> </ol>
EC 2	<p>The Proponent, its Consortium Members, and its or their respective Related Bodies Corporate, must not have had a judicial decision relating to employee entitlements made against it (not including decisions under appeal), in respect of which the Proponent, its Consortium Members, or its or their respective Related Bodies Corporate, has failed to pay any amounts required to be paid following that judicial decision.</p>
EC 3	<p>The Proponent, its Consortium Members, and its or their respective Related Bodies Corporate, must not be named as an organisation that is currently not complying with the <i>Workplace Gender Equality Act 2012</i> (Cth) (<b>WGE Act</b>). The Proponent, its Consortium Members, and its or their respective Related Bodies Corporate, must understand and meet their respective obligations, if any, under the WGE Act.</p>
EC 4	<p>The Proponent and its Associates must not, within the previous 10 years, have been subject to an inquiry by the National Anti-Corruption Commission, or an equivalent body in a jurisdiction in Australia, in which a finding has been made against any of them (including a finding that any of them has engaged in corrupt conduct).</p>
EC 5	<p>The Proponent, its Consortium Members, and its or their respective Related Bodies Corporate, must not be named as an organisation on the Consolidated List maintained by the Australian Sanctions Office within the Department of Foreign Affairs and Trade.</p>
EC 6	<p>If any of the Proponent, its Consortium Members, or its or their respective Related Bodies Corporate, is a Reporting Entity under the <i>Modern Slavery Act 2018</i> (Cth) (<b>MS Act</b>), they must have complied with their obligations under that Act, including (if applicable) registering a modern slavery statement with the Attorney General's Department.</p>
EC 7	<p>The Proponent must propose one Bid Entity, which may be the Proponent and which, at the time of the execution of the CISA, must be a SPV which:</p> <ol style="list-style-type: none"> <li>a) itself satisfies EC 1 (as well as all other Eligibility Criteria);</li> <li>b) only carries on the Project, the Associated Project (if applicable), and the existing dispatchable asset (if applicable), and conducts no other business; and</li> <li>c) holds all of the assets, and is entitled to all of the revenue, of the Project.</li> </ol> <p>Note: If a Proponent submits a proposal for a Staged Project in this Tender 3 Process, in which the existing dispatchable asset is owned and operated by a different SPV to the SPV which is proposed to own the new dispatchable asset, AEMO may, at its absolute discretion and subject to the Staged Project otherwise complying with the other Eligibility Criteria, include the Staged Project in the Stage A merit assessment.</p>
EC 8	<p>The Proponent, its Consortium Members, and its or their respective Related Bodies Corporate, must not have been the subject of a conviction for a criminal offence under the following legislation prohibiting racial discrimination and relating to the protection of First Nations' cultural heritage and the environment, being the:</p> <ol style="list-style-type: none"> <li>a) <i>Racial Discrimination Act 1975</i> (Cth)</li> <li>b) <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Cth)</li> <li>c) <i>Protection of Movable Cultural Heritage Act 1986</i> (Cth)</li> <li>d) <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth) (<b>EPBC Act</b>).</li> </ol> <p>Spent convictions are not required to be disclosed.</p> <p>Note: If the Proponent progresses beyond Stage A of this Tender 3 Process, the Proponent, and its Consortium Members, may be required to give a warranty that they, and their respective Related Bodies Corporate, have not been the subject of a conviction under any of the above legislation.</p>

**Table 5 Project Eligibility Criteria**

Item	Criteria
EC 9	The Project must be registered, or must state in its application that it intends to register, with AEMO for the central dispatch process under the National Electricity Rules (NER) in relation to a region of the NEM.
EC 10	<p>The Project must:</p> <ul style="list-style-type: none"> <li>a) have a registered capacity of not less than 30 MW; and</li> <li>b) be able to dispatch its registered capacity continuously for a minimum duration of 2 hours.</li> </ul>
EC 11	<p>The Project's fuel source must either:</p> <ul style="list-style-type: none"> <li>a) be an eligible renewable energy source, as described in section 17 of the <i>Renewable Energy (Electricity) Act 2000</i> (Cth) and must be eligible to create large-scale generation certificates under that Act;</li> <li>b) charge from the NEM; or</li> <li>c) a combination of (a) and (b).</li> </ul> <p>Projects will not be eligible if they:</p> <ul style="list-style-type: none"> <li>a) are virtual power plants, demand response or other virtual aggregation and flexible loads; or</li> <li>b) use native forest wood waste.</li> </ul>
EC 12	The Project must not have been identified as committed or existing, in the AEMO Generation Information page published on 23 January 2023.
EC 13	<p>The Project must not be the subject of (or have been awarded) a long-term (5 years or more) revenue underwriting agreement with the Australian Government, or a State or Territory of Australia, under which:</p> <ul style="list-style-type: none"> <li>a) 50% or more of the Project's nameplate capacity is contracted for a purpose under that revenue underwriting agreement; and</li> <li>b) the Project receives or is or will become entitled to receive either periodic or ongoing payments under that revenue underwriting agreement.</li> </ul> <p>For the purposes of this EC 13, the following are permitted in relation to a Project:</p> <ul style="list-style-type: none"> <li>a) non-concessional funding provided by the Clean Energy Finance Corporation;</li> <li>b) revenue associated with certificates created or received under an Australian Government, State or Territory capacity, generation or green certificate scheme;</li> <li>c) financial incentives or payments received from an Australian Government, State or Territory to alter electricity consumption to influence electricity demand;</li> <li>d) investment received from an Australian Government or State or Territory government body;</li> <li>e) grants from an Australian Government or State or Territory government body, whether repayable or not; and</li> <li>f) any new policy announced to support the development of renewable energy projects (i.e. funding from the proposed NSW Energy Security Corporation).</li> </ul>
EC 14	<p>The Project must:</p> <ul style="list-style-type: none"> <li>a) have received a network service provider response to a connection enquiry;</li> <li>b) have executed a connection agreement; or</li> <li>c) be in the process of seeking to amend an existing connection agreement.</li> </ul> <p>Note: This EC does not apply to NSW projects that are either participating, or intending to participate, in an NSW access rights scheme. To be eligible for this Tender 3, these projects must satisfy EC 15.</p>
EC 15	<p>For Projects in NSW that require an access right to connect to the network, the Project must either:</p> <ul style="list-style-type: none"> <li>a) be currently participating in the access rights for South West (SW) or Central West Orana (CWO) Renewable Energy Zones (REZs) and are awaiting an access right notification response; or</li> <li>b) intend to participate in future NSW access right processes in the CWO REZ or SW REZ. The access right process must have commenced by the Stage B – Financial Value Bid Closing Date and Time, otherwise the Project will become ineligible under this Tender 3 Process.</li> </ul> <p>Note: At the time of publishing these Tender Guidelines, no announcement has been made regarding the commencement of future access right schemes. More information relating to NSW projects and access rights can be found in <a href="#">Section 3.3</a>.</p>

Item	Criteria
EC 16	<p>The Project must have received a project assessment decision from the relevant planning authority under the applicable State or Territory legislation, or alternatively, if a project assessment decision is not required, the Proponent must have lodged a development approval application under the relevant State or Territory planning legislation in relation to the Project. AEMO may require the Proponent to provide evidence, to the reasonable satisfaction of AEMO, of the project assessment decision or lodgement of the development approval application in relation to the Project.</p> <p>See Table 6 below on the State/Territory specific requirements.</p>
EC 17	<p>In respect of the Project, the Proponent must have not been awarded:</p> <ol style="list-style-type: none"> <li>a CISA; or</li> <li>a Long-Term Energy Service Agreement (<b>LTESA</b>).</li> </ol> <p>Note: In respect of the Project, if the Proponent is awarded a CISA or a LTESA during this Tender 3 Process (e.g., the Proponent has been awarded a CISA under the Tender 1 Process in respect of the Project whilst this Tender 3 Process is under way), the Project will be considered ineligible under this EC 17 in this Tender 3 Process.</p>

**Table 6 State/Territory specific requirements for EC 16**

State / Territory	State/Territory Specific EC 16 Criteria
NSW	The Project must have received a Secretary's Environmental Assessment Requirements ( <b>SEARs</b> ) or, if SEARs do not apply, have lodged a development application for consent under the <i>Environmental Planning and Assessment Act 1979</i> (NSW) in relation to the Project.
ACT	The Project must have been issued a Scoping Document from the Territory Planning Authority under the <i>Planning Act 2023</i> (ACT) ( <b>Planning Act</b> ), or, if a Scoping Document is not required for the Project, a Development Application for the Project has been submitted under the Planning Act.
SA	<p>The Project must have been classified or declared as an impact assessed development (not being a restricted development) under Part 7 of the <i>Planning, Development and Infrastructure Act 2016</i> (SA) (<b>PDI Act</b>) or, if the Project is not so classified or declared:</p> <ol style="list-style-type: none"> <li>a development application for planning consent must have been submitted under the PDI Act in relation to the Project; or</li> <li>if the Project is being assessed under Part 8 or Part 9 of the PDI Act, an application for a development authorisation must have been submitted under Part 8 or 9 (as applicable); or</li> <li>the Project is excluded from a requirement to make an application for a development authorisation.</li> </ol>
VIC	<p>The Minister administering the <i>Environment Effects Act 1978</i> (VIC) must have declared or decided that an Environment Effects Statement (<b>EES</b>) should be prepared for the Project or, if an EES is not required for the Project:</p> <ol style="list-style-type: none"> <li>an application for a planning permit must have been lodged under the <i>Planning and Environment Act 1987</i> (Vic) (<b>PE Act</b>) in relation to the Project; or</li> <li>an amendment to the applicable Planning Scheme(s) to facilitate the Project is being prepared by, or has been authorised by, the Minister administering the PE Act to exclude the Project from a requirement in the applicable planning scheme(s) from the need for a permit.</li> </ol>
TAS	The Project has been declared a major project under Part 4 of the <i>Land Use Planning and Approvals Act 1993</i> (Tas) ( <b>Land Use Act</b> ) or, if the Project is not so declared, a planning permit application has been made in relation to the Project under the Land Use Act in relation to any aspects of the Project that require a permit.
QLD	<p>If:</p> <ol style="list-style-type: none"> <li>the traditional planning pathway under the <i>Planning Act 2016</i> (Qld) (<b>QLD Planning Act</b>) is being pursued, the Project has lodged a development approval application with the relevant assessment agency under the QLD Planning Act in relation to the Project; or</li> <li>the coordinated project pathway under the <i>State Development and Public Works Organisation Act 1971</i> (Qld) is being pursued, the Project has been declared by the Coordinator-General to be a coordinated project for which an Impact Assessment Report or Environmental Impact Statement is required.</li> </ol>

## 3.2 Merit Criteria

Bids will be assessed against the Merit Criteria set out in [Section 3.2.1](#) and [Section 3.2.2](#).

Proponents will be required to provide responses and supporting documentation against each of the Merit Criteria. The “What is required” column in each Merit Criteria table details the information Proponents should provide. The “What we are looking for” column in each Merit Criteria table details components that may be assessed favourably.

Proponents will be required to provide target (or actual, if applicable) dates for Financial Close and the COD in their Stage A – Project Bids. These dates should be the same in a Proponent’s Stage A – Project Bid and its Stage B – Financial Value Bid.

### 3.2.1 Stage A – Project Bid Merit Criteria

The Project Bid Merit Criteria are listed below.

Select a Merit Criterion to learn more	
	<a href="#">MC 1 – Contribution to system reliability and system benefits</a>
	<a href="#">MC 2 – Project deliverability and timetable</a>
	<a href="#">MC 3 – Organisational capability to deliver Project</a>
	<a href="#">MC 4 – First Nations engagement</a>
	<a href="#">MC 5 – Community engagement</a>

Projects that can demonstrate some or all the characteristics outlined below may be considered higher merit in the overall Project Bid assessment:

- **Contribution to system reliability and system security:** The Project is intending to connect to a network location that is expected to enable it to contribute to the reduction of unserved energy, and is capable of providing essential system security services.
- **Network Connection:** The Project has received a letter from AEMO under clause 5.3.4 of the NER for its proposed network connection (or for Projects connecting to new REZ infrastructure in NSW, the Project is currently participating in Tender Round 5 for a SW access right, EnergyCo’s process for CWO access rights or intends to participate in a future access rights process in those REZs which must have commenced by the Stage B – Financial Value Bid Closing Date and Time).

- **Development Approval:** The Project has received development approval from the relevant planning authority under the applicable State or Territory legislation.
- **Other Approvals:** If required for the Project, the Project has received approval under the EPBC Act.
- **Financing:** The Project has secured conditional financing arrangements with funding providers.
- **Land Tenure:** The Project has secured all necessary land tenure rights for the Project and connection route (if the connection route is the responsibility of the Project).
- **EPC Engagement:** The Project has executed a contract or term sheet with the Engineering, Procurement and Construction (EPC) Contractor and/or Original Equipment Manufacturer (OEM).
- **Community engagement:** The Project has engaged, collaborated, and built trust with the relevant stakeholders and local community.
- **First Nations engagement:** The Project has engaged, collaborated, and built trust with First Nations communities.

#### Stage A Merit Criteria – Expected supporting documentation

Proponents are expected to provide the supporting attachments listed below to assist in the assessment of their Project Bid. Additional documents submitted may be used for verification and due diligence purposes but may not be assessed in detail during the Stage A Project Bid assessment.

Expected Project Bid attachments	
<b>MC 1 – Contribution to system reliability and system benefits</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Single Line Diagram.</li> </ul>
<b>MC 2 – Project deliverability and timetable</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Project development plan and schedule.</li> <li><input type="checkbox"/> Site map of the Project.</li> <li><input type="checkbox"/> Project risk register.</li> <li><input type="checkbox"/> If available, evidence of progress towards securing land tenure rights for the Project site.</li> <li><input type="checkbox"/> Evidence of progress towards securing a connection agreement and/or Registration.</li> <li><input type="checkbox"/> If available, an executed connection agreement, or a clause 5.3.4 letter from AEMO (pursuant to section 5.3.4 of the NER).</li> <li>• Evidence of progress towards securing planning approvals from the relevant authority including: <ul style="list-style-type: none"> <li><input type="checkbox"/> Development approval or development consent from the relevant planning authority under the applicable State or Territory legislation, or</li> <li><input type="checkbox"/> If applicable, an Environmental Impact Statement, or</li> <li><input type="checkbox"/> Other evidence of planning approvals.</li> </ul> </li> <li>• Evidence of appropriate financing and revenue strategies, including: <ul style="list-style-type: none"> <li><input type="checkbox"/> Corporate structure diagram.</li> <li><input type="checkbox"/> If available, a financing strategy or plan.</li> <li><input type="checkbox"/> Evidence of progress towards the Project’s financing (e.g. approved development funding, approved early construction budget, letters of commitment from financiers, draft term sheets, funding commitments and conditional letters of support).</li> <li><input type="checkbox"/> If available, a revenue contracting strategy or plan.</li> <li><input type="checkbox"/> Evidence of progress toward the Project’s revenue strategy (e.g. letters of commitment from offtakers, term sheets, and offtake agreements).</li> </ul> </li> <li>• Evidence of progress towards securing key contractors including:</li> </ul>

Expected Project Bid attachments	
	<ul style="list-style-type: none"> <li><input type="checkbox"/> Diagram of the Project’s delivery contracting structure and/or commercial delivery model.</li> <li><input type="checkbox"/> Evidence of construction and equipment manufacturer contracting (e.g. EPC contractor and/or major equipment manufacturer correspondence, technical design summaries, early works contracts, and/or other activities related to procurement and construction of the Project).</li> </ul>
<b>MC 3 – Organisational capability to deliver Project</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Evidence of a track record of developing and delivering renewable energy projects (e.g. list of previous projects completed).</li> <li><input type="checkbox"/> Evidence of the credentials and capabilities of the Proponent (or Consortium).</li> <li><input type="checkbox"/> Corporate structure for the construction period of the Project, including the direct or indirect owner of the Proponent (and Bid Entity if different).</li> <li><input type="checkbox"/> Corporate structure for the operation period of the Project, including the direct or indirect owner of the Proponent (and Bid Entity if different).</li> </ul>
<b>MC 4 – First Nations engagement</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Evidence of how First Nations community feedback has been obtained, considered and incorporated.</li> <li><input type="checkbox"/> Evidence of First Nations communities’ acceptance for site selection and Project layout.</li> <li><input type="checkbox"/> First Nations Engagement and Communications Plan.</li> <li><input type="checkbox"/> Evidence of the outcomes of implementing the engagement and communication plan, and the outcomes of engaging with relevant First Nations’ communities.</li> </ul>
<b>MC 5 – Community engagement</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Evidence of how stakeholder and community feedback has been obtained, considered and incorporated.</li> <li><input type="checkbox"/> Evidence of community acceptance for site selection and Project layout.</li> <li><input type="checkbox"/> Stakeholder and Community Engagement Plan.</li> <li><input type="checkbox"/> Evidence of the outcomes of implementing the engagement and communication plan, and the outcomes of engaging with relevant local communities.</li> </ul>

### Merit Criterion 1 – Contribution to system reliability and system benefits

This criterion will be used to assess the impact each Project may have on the electricity system, including system reliability and the Project’s ability to provide essential system services and/or contribute to system strength.

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>• A Project’s contribution to system reliability and its impact on the electricity system.</li> <li>• This analysis will focus on the longer-term system needs, with reference to AEMO’s Integrated System Plan. In particular, it will focus on the Project’s expected ability to contribute to system reliability in the context of supporting the Commonwealth’s 82% renewable energy target by 2030. It may refer to materials published by AEMO and apply these to the assessment, such as the Electricity Statement of Opportunities and analysis on locational reliability outcomes as presented in the 2024 Enhanced Locational Information Report.<sup>4</sup></li> <li>• A Project’s contribution to system security services, including system strength, voltage control, frequency management and system restoration, when relevant.</li> <li>• For Hybrid Projects, only the contribution from the Project will be assessed. Operational constraints from the Associated Project will not be assessed.</li> </ul>	<ul style="list-style-type: none"> <li>• Single Line Diagram.</li> <li>• Technical information about the Project’s connection point, connection type, project size and technology type.</li> <li>• Basic specifications relating to system strength (fault current), voltage management (reactive power), frequency management (ramping capability) and system restoration capability (black-start).</li> </ul>	<ul style="list-style-type: none"> <li>• Projects intending to locate in strong areas of the network, or in areas of the network that are likely to enable the Project to contribute to the reduction of unserved energy.</li> <li>• Projects capable of providing essential system security benefits, targeting the automatic access standard defined in the NER, including contributing to system strength, voltage control, frequency management, and additional services such as system restoration support.</li> </ul>

<sup>4</sup> See [Figures 31, 39, 47 and 61](#) for locational reliability factors in each mainland NEM jurisdiction under the Actionable Transmission sensitivity in 2029-30.

## Merit Criterion 2 – Project deliverability and timetable

This criterion will be used to assess the Project’s progress and feasibility to reach Financial Close and commercial operations. Proponents that can provide detailed evidence to demonstrate their ability to deliver each milestone, with clear articulation of strategies for mitigating delivery risks, are likely to be assessed more favourably.

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>A Project’s progress towards achieving key development milestones and feasibility of reaching Financial Close and commercial operations. This includes an understanding of key development and construction risks (including mitigation strategies) to achieve commercial operations.</li> <li>Financing strategy and financial capacity to support the development, construction and operation of the Project.</li> <li>Contracting strategy and progress in securing partners and suppliers to deliver the Project.</li> <li>For Hybrid Projects, risks associated with constructing, commissioning, financing, and contracting the Associated Project will not be assessed.</li> </ul>	<p><b>Development pathway</b></p> <ul style="list-style-type: none"> <li>A Project development plan and schedule. The Project development plan should include, in addition to standard inclusions, a Gantt chart, key assumptions that have been made in the Project development plan and the governance framework for the Project.</li> <li>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.</li> <li>Planning approval documentation (e.g. Environmental Impact Assessment, Development Application lodgement, notification, Development Consent decision notice).</li> <li>If applicable, progress towards approvals required under the EPBC Act.</li> <li>Status of securing required land tenure rights for the Project site and connection route.</li> <li>If applicable, progress towards compliance with applicable Commonwealth and State/Territory legislation relating to First Nations communities and interests, Traditional Owner Groups and cultural heritage requirements, for example, <i>Aboriginal and Torres Strait Islander Act 2005</i> (Cth); <i>Native Title Act 1993</i> (Cth); EPBC Act; <i>Traditional Owner Settlement Act 2010</i> (Vic); <i>Aboriginal Heritage Act 2006</i> (Vic) and <i>Aboriginal Heritage Amendment Act 2016</i> (Vic) as applicable.</li> <li>For Victorian Projects, if applicable, provide detail of how the Project meets or will meet relevant requirements of the VicGrid Victorian Access Regime.</li> </ul>	<p><b>Development pathway</b></p> <ul style="list-style-type: none"> <li>Land tenure rights secured for all of the Project site (e.g. ownership, leases, or options), including the connection route if the connection route is the responsibility of the Project.<sup>6</sup></li> <li>Advanced grid connection progress with the relevant network service provider and AEMO in relation to the Project (not relevant for Projects seeking an access right in SW or CWO REZ or intending to participate in a future access rights process in those REZs).</li> <li>Evidence of progress towards securing all relevant planning and regulatory approvals and a pathway for securing any outstanding approvals required, including, when applicable, a clear pathway for resolving any ongoing concerns or queries of the authorities providing the requisite planning and regulatory approvals.</li> <li>Evidence of progress towards compliance with applicable Traditional Owners and First Nations legislative and regulatory requirements.</li> <li>A clear understanding of the Project risks (including but not limited to risks to securing grid connection, reaching commercial operations, project governance risks, stakeholder and cultural heritage risks, construction and financing risks) and identified appropriate mitigants to resolve or reduce the associated risks.</li> </ul>

<sup>6</sup> For Projects in the CWO REZ access scheme, this does not include the land tenure rights for the direct Project connection route that is to be delivered by the network operator.



What is assessed	What is required	What we are looking for
	<ul style="list-style-type: none"> <li>• Evidence of connection approval progress, such as:               <ul style="list-style-type: none"> <li>○ Connection enquiry response under the NER.</li> <li>○ Grid connection studies, payment of fees to progress grid connection application.</li> <li>○ Evidence of progress of the Generator Performance Standards (GPS) package with AEMO.</li> <li>○ Section 5.3.4 letter(s) (pursuant to section 5.3.4 of the NER).</li> <li>○ Evidence of progress of AEMO registration process.</li> <li>○ Network (Grid) connection agreement (or any related documentation).</li> </ul> </li> <li>• Note: For Projects still participating in access rights for SW or CWO REZs, or intending to participate in future access right processes in those REZs (which must have commenced by the Stage B – Financial Value Bid Closing Date and Time), a connection enquiry response is not required. However, details of the status of its access right application or intended application will be required.<sup>5</sup> These Projects should provide information equivalent to that required for a connection enquiry under the NER.</li> <li>• A Project risk register that outlines key risks and relevant mitigants (e.g. risks to securing grid connection, risks of future transmission network augmentations not occurring as planned, risk of not achieving Financial Close and/or commercial operations as planned, Project cost/funding uncertainties, Project governance risks, stakeholder and cultural heritage risks, other construction risks, etc.).</li> </ul>	
	<p><b>Financing and revenue strategy</b></p> <ul style="list-style-type: none"> <li>• A corporate structure diagram of the Project/Bid Entity, outlining the relevant parent, subsidiary, and related entities detailing their relationship to the Project/Bid Entity and relevant financial arrangements at each level.</li> </ul>	<p><b>Financing and revenue strategy</b></p> <ul style="list-style-type: none"> <li>• A clear pathway and detailed steps to financing the Project and achieving the target dates for Financial Close and commercial operations.               <ul style="list-style-type: none"> <li>– For Projects also seeking a REZ access right in NSW, the pathway to achieving Financial Close by the Project’s target date, and to meeting the Project’s target first commissioning date (with a</li> </ul> </li> </ul>

<sup>5</sup> AEMO may verify this information with the relevant authority responsible for allocating access rights at any stage during the Tender Process.

What is assessed	What is required	What we are looking for
	<ul style="list-style-type: none"> <li>• A financing strategy or plan including: <ul style="list-style-type: none"> <li>– An overview of the pathway and steps to financing the Project and achieving Financial Close and commercial operations.</li> <li>– Evidence of progress towards the Project’s financing structure, including progress towards finalising capital raising activities (e.g. approved development funding, approved early construction budget, letters of commitment from financiers, draft term sheets, funding commitments and conditional letters of support).</li> <li>– An overview of the Proponent’s (or engaged external advisors’) track record of raising capital for similar projects.</li> <li>– If applicable, details and status of the Project’s progress towards securing debt financing.</li> <li>– If applicable, details and status of the Project’s progress towards securing equity financing.</li> </ul> </li> <li>• A revenue contracting strategy or plan, including, if applicable, details and status of the Project’s revenue offtake agreements.</li> </ul>	<p>reasonable buffer to mitigate the risk of any acceptable delays), must be demonstrated.</p> <ul style="list-style-type: none"> <li>• Evidence of progress towards finalising capital raising activities, substantiated through supporting documentation.</li> </ul>
	<p><b>Construction contracting</b></p> <ul style="list-style-type: none"> <li>• The Project’s delivery contracting structure and/or commercial delivery model in diagrammatic representation, including all relevant works packages and activities related to procurement and construction of the Project.</li> <li>• An overview of progress toward securing construction cost (including equipment cost) certainty, including an outline of key risks associated with cost certainty.</li> <li>• Details of progress towards securing construction contractors and equipment manufacturers.</li> <li>• Evidence of engagement with construction contractors and equipment manufacturers, such as: <ul style="list-style-type: none"> <li>– EPC contractor and/or major equipment manufacturer engagement (e.g. correspondence, term sheet, early works contracts); or</li> <li>– Technical design summaries, and/or other activities related to procurement and construction of the Project.</li> </ul> </li> </ul>	<p><b>Construction contracting</b></p> <ul style="list-style-type: none"> <li>• Demonstrates a clear understanding and has identified the required commercial delivery model to develop the Project.</li> <li>• Demonstrates progress toward securing relevant Project agreements (e.g. construction contracts).</li> </ul>

### Merit Criterion 3 – Organisational capability to deliver the Project

This criterion will be used to assess the track record, capability and capacity of the Proponent and its delivery partners involved in the Project, to provide assurance that the Project can be delivered as outlined in the Project Bid.

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>The capability and track record of the Proponent (including its management and personnel) and its key delivery partners (including Consortium Members, suppliers, and contractors) involved in the Project.</li> <li>Experience in engaging with relevant stakeholders required to deliver the Project, including public authorities, communities, regulatory entities, and contractors.</li> <li>The capacity of the Proponent and its delivery partners to dedicate the necessary resources to deliver the Project on time, and to meet quality requirements and budget.</li> </ul>	<p><b>Delivery of Project</b></p> <ul style="list-style-type: none"> <li>Diagrams showing the corporate structure for the construction and operation period of the Project including:               <ul style="list-style-type: none"> <li>the direct and indirect owners of the Proponent (and Bid Entity, if different); and</li> <li>the contracting structure and/or commercial delivery model.</li> </ul> </li> </ul> <p><b>Procurement and resources required</b></p> <ul style="list-style-type: none"> <li>An overview of roles and responsibilities of the key delivery team and key resources required to deliver the Project, including consultants, advisors, and delivery partners.</li> <li>An overview of the plan for procuring the required resources and the progress undertaken to-date.</li> </ul> <p><b>Track record</b></p> <ul style="list-style-type: none"> <li>An overview of the track record of the Proponent and/or key delivery partners (including Consortium Members, suppliers, and contractors) involved in the Project. This should include relevant projects delivered and/or operated in the last five (5) years.</li> <li>Evidence of the track record of developing and delivering renewable energy projects.</li> <li>An overview and evidence of the credentials and capabilities of the Proponent (or Consortium) and its (or their) personnel responsible for the delivery of the Project.</li> <li>Information regarding the Proponent's track record regarding compliance with applicable environmental regulations and industry standards.</li> <li>Details of any material work, health and safety incidents that have occurred in the past five years regarding the Project, the Proponent or its contractors, including steps taken to mitigate the likelihood of future incidents.</li> </ul>	<ul style="list-style-type: none"> <li>Proponent and its delivery partners demonstrate a track record in delivering comparable projects (e.g. details of comparable projects, list/summaries of previous projects delivered).</li> <li>Information about any material work, health and safety incidents involving the Proponent or its contractors, including evidence of steps taken to mitigate the likelihood of future incidents.</li> <li>Confirmation of compliance with applicable environmental regulations and industry standards. Instances of non-compliance, breach or default in previous or current comparable projects should be disclosed, including reasons for non-compliance and information regarding how the non-compliance was resolved.</li> <li>Proponent demonstrates a detailed and thorough understanding of the skills and experience required to deliver the Project and a plan for procuring them and includes detailed information about the availability of these resources and a strategy for securing them, if not already secured.</li> </ul>

#### Merit Criterion 4 – First Nations engagement

This criterion will be used to assess the Proponent’s approach to engagement strategies and understanding of Traditional Owners and First Nations communities (**First Nations communities**).

For general guidance on applying better practice approaches, Proponents should refer to the minimum and leading practice examples outlined in the Clean Energy Council’s [Leading Practice Principles: First Nations and Renewable Energy Projects](#) guide for engaging with Australia’s First Nations peoples on renewable energy projects.

This criterion assesses engagement and consultation with First Nations communities, with any First Nations Commitments to be assessed in Stage B under MC 8.

**Proponents that can successfully meet the components in the “What we are looking for” column will be attributed higher merit.**

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>The Proponent’s approach to engaging with First Nations communities, in order to build meaningful, and mutually beneficial, relationships.</li> <li>The Proponent’s planning for and ability to demonstrate positive approaches to inform, consult, build trust and collaborate with, involve and empower First Nations communities, in order to identify and realise benefits from the Project.</li> <li>The Proponent’s level of engagement, commensurate to the regional placed-based considerations of the Project.</li> </ul>	<ul style="list-style-type: none"> <li>First Nations Engagement and Communications Plan.               <ul style="list-style-type: none"> <li>Evidence of the outcomes of implementing the engagement and communication plan, and the outcomes of engaging with relevant First Nations’ communities.</li> </ul> </li> <li>For Projects in NSW, see <a href="#">Section 3.3.2</a> of these Tender Guidelines, which will be taken into consideration in addition to these requirements.</li> </ul> <p><b>Understanding of First Nations communities:</b></p> <ul style="list-style-type: none"> <li>Details of the relevant First Nations communities in the local area and surrounding region, including the cultural heritage of the First Nations communities.</li> <li>Details of approach to First Nations community engagement, past engagement activities and proposed future activities. This should include any applicable requirements set out in First Nations Commonwealth and State/Territory legislation in the relevant jurisdiction, as applicable.</li> <li>Description of the Project’s complaints handling policy and processes for First Nations communities. Include information about whether the Project’s personnel have participated in</li> </ul>	<ul style="list-style-type: none"> <li>For Projects in NSW, demonstrated understanding of, and evidence of steps taken to address the requirements noted here, in addition to the matters referred to in <a href="#">Section 3.3.2</a> of these Tender Guidelines. Detailed approach to First Nations community engagement, and a demonstrated understanding of relevant First Nations communities and cultural heritage aligned to better practice engagement and applicable requirements set out in First Nations Commonwealth and State/Territory legislation in the relevant jurisdiction, as applicable.</li> <li>Demonstrated understanding of First Nations communities, consistent with, but not limited to, applicable legislative requirements regarding First Nations, Traditional Owner Groups or cultural heritage.</li> <li>Evidence of First Nations better practice engagement and place-based design, when appropriate to the Project site or region, including demonstration of culturally aware engagement that has led to, or is intended to establish, trust</li> </ul>

What is assessed	What is required	What we are looking for
	<p>any internal or external dispute resolution services and if the Proponent has joined an independent complaint handling scheme.</p> <ul style="list-style-type: none"> <li>• Description and evidence of First Nations communities' acceptance for site selection and Project layout, including consideration of First Nations community consultation and interests that were incorporated into the selection of the Project site.</li> <li>• For NSW Projects: <ul style="list-style-type: none"> <li>– detail how your engagement with First Nations communities takes into account the NSW First Nations Guidelines; and</li> <li>– detail if you have applied for, or maintain, any membership of the approved independent ombudsman scheme under the <i>Electricity Supply Act 1995</i> (NSW), the Energy &amp; Water Ombudsman NSW, for the provision of effective External Dispute Resolution services to potentially impacted First Nations communities.</li> </ul> </li> </ul> <p><b>Understanding of impacts:</b></p> <ul style="list-style-type: none"> <li>• Detail identified impacts (real and perceived) of the Project on First Nations communities and describe the approaches that will be taken to minimise and offset impacts, and the extent to which this approach has been designed and developed with First Nations communities.</li> <li>• Detail the identified opportunities for First Nations communities that the Project will or may be expected to have.</li> <li>• Detail how feedback from First Nations communities during Project design, development, and future implementation, has been considered or incorporated. Provide available evidence.</li> <li>• Outline, based on engagement activities, the identified social and economic issues faced by First Nations community, including access to affordable and reliable electricity and access to quality public and private infrastructure.</li> </ul>	<p>and meaningful relationships with relevant representative bodies (as per the Clean Energy Council - Leading Principles: First Nations and Renewable Energy Projects).</p> <ul style="list-style-type: none"> <li>• Evidence of having considered and/or incorporated feedback from First Nations communities during Project design, development and future implementation.</li> <li>• Evidence of the level of acceptance from First Nations' communities on the Project.</li> <li>• Clear identification and understanding of First Nations communities' views on the Project, issues or the impacts raised, and desired opportunities, supported by evidence of appropriate engagement to date and evidence of early engagement.</li> <li>• Demonstrated understanding of First Nations community access to affordable and reliable electricity and access to quality public and private infrastructure.</li> <li>• Demonstrate building confidence and trust with communities by committing to better practice complaints handling policy and processes, and participating in internal dispute resolution and external dispute resolution services. This could include joining an independent complaint handling scheme, such as an energy ombudsman, in the relevant jurisdiction.</li> </ul>

## Merit Criterion 5 – Community engagement

This criterion will be used to assess the Proponent’s approach to engagement strategies and understanding of stakeholders and local communities.

For general guidance on applying better practice approaches, Proponents can refer to the Clean Energy Council’s [Guide to Benefit Sharing Options for Renewable Energy Projects](#).

Proponents are strongly encouraged to consider and apply the [IAP2 Public Participation Spectrum](#) to the community engagement approach.

**Proponents that can successfully meet the components in the “What we are looking for” column will be attributed higher merit.**

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>The Proponent’s identification of the relevant local communities, stakeholders and trade unions, including a proposed approach to engagement that fosters understanding, trust and support.</li> <li>The Proponent’s engagement undertaken to-date with the relevant local communities and stakeholders.</li> <li>Approach to planned and future engagement with stakeholders, local communities and trade unions to foster understanding, trust and support.</li> <li>Level of understanding of the impact and change the Project may have on the community and how the Project will create benefits sharing during development, construction and operation, including evidence of ways that community engagement has informed this understanding.</li> </ul>	<ul style="list-style-type: none"> <li>Stakeholder and Community Engagement Plan               <ul style="list-style-type: none"> <li>Evidence of the outcomes of implementing the engagement and communication plan, and the outcomes of engaging with relevant communities.</li> </ul> </li> <li>For Projects in NSW, see <a href="#">Section 3.3.2</a> of these Tender Guidelines, which will be taken into consideration in addition to these requirements.</li> </ul> <p><b>Understanding of community stakeholders:</b></p> <ul style="list-style-type: none"> <li>Identification of stakeholders and local communities impacted by the Project.</li> <li>Approach to stakeholders and local community engagement, including communications protocol, feedback loops and complaints management.</li> <li>Overview of the views and feedback from stakeholders, local community, public authorities, regulatory entities and trade unions and social context, including stakeholder mapping with consideration of underrepresented or vulnerable community members (e.g. via a social impact assessment and/or social feasibility study).</li> <li>Description and evidence of community acceptance for site selection and Project layout, including how consideration of community consultation and interests were incorporated into the selection of the Project site.</li> </ul>	<ul style="list-style-type: none"> <li>For Projects in NSW, demonstrated understanding of, and evidence of steps taken to address the requirements noted here, in addition to the matters referred to in <a href="#">Section 3.3.2</a> of these Tender Guidelines.</li> <li>Clear identification of the relevant stakeholders and communities, including a demonstrated understanding of the impact and change the Project may have on the community.</li> <li>Demonstrated understanding of the views and issues faced by the local communities and stakeholders, and their expectations of benefits to be delivered, supported by evidence of engagement undertaken to-date.</li> <li>Evidence of engagement activities that incorporate 'involve' level participation elements under the IAP2 spectrum.</li> <li>Demonstrated consideration of early and collaborative community and stakeholder engagement, with evidence of building trust and good relationships with stakeholders and local communities that are a result of stakeholders being well informed.</li> <li>Demonstrated understanding of the views and feedback from stakeholders, local community, public authorities, regulatory entities and trade unions and social context, including detailed stakeholder mapping</li> </ul>

	<ul style="list-style-type: none"> <li>• Description of the Project’s complaints handling policy and processes for the community and stakeholders. Include information about whether the Project’s personnel have participated in any internal or external dispute resolution services and if the Proponent has joined an independent complaint handling scheme.</li> <li>• For NSW Projects: <ul style="list-style-type: none"> <li>– Detail if you have applied for, or maintain, any membership of the approved independent ombudsman scheme under the <i>Electricity Supply Act 1995 (NSW)</i>, the Energy &amp; Water Ombudsman NSW, for the provision of effective External Dispute Resolution services to potentially impacted local communities.</li> </ul> </li> </ul> <p><b>Understanding of impacts:</b></p> <ul style="list-style-type: none"> <li>• Approach to minimise and offset the Project’s impacts on stakeholders and local communities, supported by evidence of stakeholder and local community engagement on appropriate approaches to address impacts.</li> <li>• Summary of the identified impacts that the Project will have, or may be expected to have, on the stakeholders and local communities.</li> <li>• Detail how feedback from stakeholders and the local communities during Project design, development, and future implementation, has been considered or incorporated. Provide available evidence.</li> </ul>	<p>with demonstrated consideration of underrepresented or vulnerable community members.</p> <ul style="list-style-type: none"> <li>• Evidence of community acceptance of the Project, including demonstration of how community consultation and community interests were incorporated into the design of the Project.</li> <li>• Detailed and appropriate approach to minimise and offset the Project’s impact on stakeholders and the local community, supported by evidence.</li> <li>• Demonstrate building confidence and trust with communities by committing to better practice complaints handling policy and processes, and participating in internal dispute resolution and external dispute resolution services. This could include joining an independent complaint handling scheme, such as an energy ombudsman, in the relevant jurisdiction.</li> </ul>
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### 3.2.2 Stage B – Financial Value Bid Merit Criteria

This section outlines the information required to assess the Merit Criteria for the Financial Value Bid assessment of the Project Shortlist. Proponents in the Project Shortlist must submit a [Default Financial Value Bid](#) and may also submit an [Alternative Financial Value Bid](#).

Each Financial Value Bid will be assessed individually against the same Stage B – Financial Value Bid Merit Criteria, below. The primary consideration in selecting Successful Proponents under the CIS will be value for money, which extends beyond cost considerations.

Projects with an earlier COD Target Date during the Stage B assessment (MC 6), with milestones that are contractually enforceable, may be viewed favourably. Projects with a COD Target Date beyond 31 December 2029 may be considered of low merit, and may not proceed to further assessment.

Projects in NSW that have a COD Target Date of 1 July 2027 or earlier may be viewed more favourably.

Select a Merit Criterion to learn more	
	<a href="#">MC 6 – Financial value and system benefits</a>
	<a href="#">MC 7 – Commercial departures</a>
	<a href="#">MC 8 – First Nations Commitments</a>
	<a href="#">MC 9 – Social Licence Commitments</a>

#### Stage B Merit Criteria – Expected supporting documentation

Proponents are expected to provide the supporting attachments listed below to assist in the assessment of their Financial Value Bid. Additional documents submitted may be used for verification and due diligence purposes, but may not be assessed in detail during the Stage B Financial Value Bid assessment. The supporting documentation outlined in the table below are indicative, with further information regarding Stage B requirements to be provided to Proponents on the Project Shortlist.

Expected Financial Value Bid attachments	
<b>MC 6 – Financial Value and system benefits</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Completed MC 6 Returnable Schedule.</li> <li><input type="checkbox"/> Evidence of technical specifications such as round-trip efficiency and operating life.</li> </ul>
<b>MC 7 – Commercial departures</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Completed MC 7 Returnable Schedule (if departures are proposed).</li> <li><input type="checkbox"/> A marked-up version of the Project Documents, in both Word and PDF format.</li> <li><input type="checkbox"/> A clean version of the Project Documents, in a form ready for execution by the Parties (i.e. requiring no further changes, including Parties’ details and execution blocks), in both Word and PDF format (except for details relating to the Bid Entity, if it has not been established at this time).</li> </ul>



Expected Financial Value Bid attachments	
<b>MC 8 – First Nations Commitments</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Completed MC 8 Returnable Schedule.</li> <li><input type="checkbox"/> Evidence of commitments that consider and seek to address identified issues in the specific local community context and deliver economic and/or financial opportunities for the First Nations community.</li> <li><input type="checkbox"/> Evidence of active involvement of First Nations communities in the co-designing of benefit sharing schemes and other First Nations initiatives.</li> </ul>
<b>MC 9 – Social Licence Commitments</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Completed MC 9 Returnable Schedule.</li> <li><input type="checkbox"/> Evidence that shows an understanding of and response to regional supply chain, Local Content and employment opportunities.</li> <li><input type="checkbox"/> Commitments to the employment and/or development of the local workforce, including skills and training (including apprenticeships) and labour standards adopted.</li> <li><input type="checkbox"/> Evidence of active involvement of local communities in the co-designing of community benefit sharing schemes.</li> </ul>

## Merit Criterion 6 – Financial value and system benefits

This criterion will be used to assess system benefits and financial value. This includes three key benefits:

- the Project’s expected contribution to system reliability and its impact on the electricity system;
- the Project’s contribution to supporting the Australian Government’s 82% renewables target by 2030; and
- the Project’s effect on wholesale electricity costs.

These benefits are compared to the forecast cost of the Project’s CISA.

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>• A Project’s contribution to system reliability and its impact on the electricity system, including forecast contribution to avoided unserved energy events, compared to the forecast cost of the Project’s CISA. Modelling analysis will consider the Project’s location and duration. Assessment will consider multiple scenarios, and analysis may refer to materials published by AEMO and apply it to the assessment, such as the Integrated System Plan and the Electricity Statement of Opportunities.</li> <li>• A Project’s contribution to supporting the Commonwealth’s 82% renewables target by 2030, compared to the forecast cost of the Project’s CISA. Analysis may refer to materials published by AEMO and apply it to the assessment, such as the Integrated System Plan and the Electricity Statement of Opportunities.</li> <li>• Assessment will consider a range of energy market scenarios (including scenarios that have higher supply adequacy/reliability risks) to test Financial Value Bids for their ability to demonstrate value across a diverse range of future outcomes.</li> <li>• For Hybrid Projects, only the contribution from the Project will be assessed. Operational constraints from the Associated Project will not be assessed.</li> </ul>	<ul style="list-style-type: none"> <li>• Completed Returnable Schedule, that includes Key commercial terms.</li> <li>• Technical information including:               <ul style="list-style-type: none"> <li>– COD Target Date</li> <li>– Location of Project and network connection point</li> <li>– Maximum capacity and storage duration</li> <li>– Technology type</li> <li>– Expected operational guarantee life</li> <li>– Degradation</li> <li>– Contract start and end dates</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Projects with a relatively low forecast CISA cost. All else being equal, it is expected that the cost of a Project will be reduced when it features a:               <ul style="list-style-type: none"> <li>– Low Annual Payment Cap</li> <li>– Low Annual Floor</li> <li>– Low Annual Ceiling</li> <li>– Fewer support years</li> </ul> </li> <li>• Projects intending to locate in strong areas of the network, or in areas of the network that are likely to enable the project to contribute to the reduction of unserved energy. Projects with longer duration located in these areas are expected to provide higher absolute system benefits.</li> <li>• Projects that support the contribution to the Commonwealth 82% renewables target by 2030, including by alleviating network Congestion.</li> <li>• Projects with a relatively high ability to contribute to reducing wholesale electricity market costs and reduce volatility.</li> </ul>

### Merit Criterion 7 – Commercial departures

This criterion will be used to assess the nature and extent of any commercial departures from the proforma Project Documents (in particular, the CISA), and the resulting risk-transfer to the Australian Government. Departures from the proforma Project Documents that materially increase risk to and administrative burden on the Australian Government are not expected to be assessed as high merit. 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 and administrative position in the proforma Project Documents

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>Materiality of changes to risk allocation and additional administrative burden or new risks from what is set out in the proforma Project Documents.</li> </ul>	<ul style="list-style-type: none"> <li>Completed departures table (Returnable Schedule), including the reason for requesting each departure.</li> <li>A marked-up version of the Project Documents, in both Word and PDF format.</li> <li>If an Alternative Financial Value Bid is submitted, only the Bid Variables in the Project Documents have been amended when compared to the Project Documents submitted as part of the Default Financial Value Bid.</li> <li>A clean version of the Project Documents, in a form considered capable of acceptance by the Australian Government and ready for execution by the Parties (i.e. requiring no further changes, including Parties’ details and execution blocks), in both Word and PDF format (except for details relating to the Bid Entity, if it has not been established at this time).</li> </ul>	<ul style="list-style-type: none"> <li>Bids that accept the proforma Project Documents with no changes to risk allocation, i.e., minimal to no departures from the proforma Project Document.</li> <li>If departures are proposed, they may be considered based on the nature and extent of each departure and its impact on:               <ul style="list-style-type: none"> <li>the risk allocation to the Australian Government;</li> <li>the administrative burden and cost to the Australian Government; or</li> <li>consistency with the Australian Government’s Policy Objectives.</li> </ul> </li> </ul>

## Merit Criterion 8 – First Nations Commitments

Proponents should consider any commitments made under this MC 8 – First Nations Commitments to be contractually binding under both the Default and Alternative Financial Value Bids. The commitments submitted under MC 8 for First Nations communities must be distinct from the Social Licence Commitments in MC 9. The commitments will be subject to contractual monitoring and enforcement regimes under the CISA, if a Proponent is successful in the Tender Process.

This criterion will be used to assess the quality of the Project’s approach and strength of binding commitments to improve First Nations economic and social outcomes, including economic participation for Traditional Owners and First Nations communities (**First Nations communities**).

Projects in NSW must demonstrate alignment to the [NSW First Nations Guidelines](#) regarding minimum requirements for economic participation by First Nations peoples and businesses, and the goals and aspirations for First Nations communities included in the region-specific guidelines (see [Section 3.3.2](#) for further information). Projects not in NSW that demonstrate commitments similar to those outlined in the NSW Renewable Energy Sector Board (**RESB**) Plan objectives for First Nations participation will be assessed favourably.

The **First Nations and Social Licence Market Briefing** outlines the expectation for First Nations and Social Licence Commitments, and provides examples of commitments that could demonstrate merit and support higher quality Bid responses.

**Proponents that can successfully meet the components in the “What we are looking for” column will be attributed higher merit.**

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>Economic and social development commitments to be implemented by Proponents for First Nations communities.</li> <li>Strategies and processes in place to ensure that commitments will be achievable.</li> <li>Commitment towards benefits sharing with First Nations communities.</li> <li>Level of understanding of the influence and change the Project may have on the First Nations community and how the Project will create benefits sharing during development, construction and operation, and the extent to</li> </ul>	<ul style="list-style-type: none"> <li>For Projects in NSW, see <a href="#">Section 3.3.2</a> of these Tender Guidelines, which will be taken into consideration in addition to these requirements.</li> <li>Commitments that will provide economic benefits and empowerment for First Nations communities, especially those delivered through supply chain, local employment and training, and partnership approaches.</li> <li>First Nations Commitments that consider, and seek to address, identified issues in the specific local community context and deliver economic opportunities for the First Nations community.</li> <li>Strategies and activities that demonstrate how the commitments will be achieved.</li> </ul>	<ul style="list-style-type: none"> <li>For Projects in NSW, demonstration of First Nations Commitments that address the requirements noted here, in addition to the matters referred to in <a href="#">Section 3.3.2</a> of these Tender Guidelines.</li> <li>First Nations Commitments that have considered and incorporated relevant community feedback and interests in the commitment design process and are tailored specific to First Nations communities.</li> <li>Bids that demonstrate strong commitments to First Nations communities (e.g. equity sharing, revenue sharing, employment and training opportunities).</li> <li>Bids that fund workforce preparedness programs to help First Nations peoples to enter the workforce and remove</li> </ul>

What is assessed	What is required	What we are looking for
<p>which this understanding has been informed by engagement with First Nations communities.</p> <ul style="list-style-type: none"> <li>Hybrid Projects will be assessed on First Nations commitments made by the Proponent for the Project only, and not the Associated Project.</li> <li>Commitments will be assessed commensurate to the regional placed-based considerations of the Project.</li> <li>The quality and positive impact as a result of implementation of commitments will be valued over the quantum of commitments.</li> </ul>	<ul style="list-style-type: none"> <li>Commitments that seek to address identified barriers in specific local community contexts that are impeding greater economic participation by First Nations businesses, organisations and individuals, such as workforce preparedness or local business maturation.</li> <li>Completed components of the MC 8 Returnable Schedule that include any and all First Nations Commitments.</li> </ul>	<p>known blockages for entering (i.e. trade skills and licensing requirements, and small business readiness programs).</p> <ul style="list-style-type: none"> <li>Bids that can demonstrate commitments similar to those outlined in the NSW RESB Plan objectives for First Nations participation.</li> <li>Bids that can, in respect of procurements awarded to Indigenous enterprises, meet (where locationally practical to do so) a target of 3% of Project contract value (CAPEX and OPEX) in each financial year.</li> <li>Projects that develop and implement an Indigenous Procurement target aligned to the Australian Government's Indigenous Procurement Policy.</li> <li>Active involvement of First Nations communities in the co-designing of benefit sharing schemes (separate to and distinct from wider community benefit sharing schemes).</li> <li>Evidence of First Nations commitments established, or to be established, that have a long-lasting and meaningful positive social impact.</li> </ul>

## Merit Criterion 9 – Social Licence Commitments

Proponents should consider any commitments made under this MC 9 – Social Licence Commitments to be contractually binding under both the Default and Alternative Financial Value Bids. The commitments submitted under MC 9 for Social Licence Commitments must be distinct from the First Nations commitments in MC 8. These commitments will be subject to contractual monitoring and enforcement regimes under the CISA, if a Proponent is successful in the Tender Process.

This criterion will be used to assess the quality of the Project’s approach and strength of binding Social Licence Commitments to improve local economic and social outcomes, and regional economic development, including local supply chains and workforce.

The **First Nations and Social Licence Market Briefing** outlines the expectation for Social Licence Commitments and provides examples of commitments that could demonstrate merit and support higher quality Bid responses.

For general guidance on applying better practice approaches, Proponents can refer to the Clean Energy Council’s [Guide to Benefit Sharing Options for Renewable Energy Projects](#).

**Proponents that can successfully meet the components in the “What we are looking for” column will be attributed higher merit.**

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>• Social Licence Commitments to be implemented by the Proponent within the Project’s community.</li> <li>• Strategies and processes in place to ensure that commitments will be achievable.</li> <li>• Level of understanding of the influence and change the Project may have on the community and how the Project will create benefit sharing during construction and operation.</li> <li>• Hybrid Projects will be assessed on Social Licence Commitments made by the Proponent for the Project only, and not the Associated Project.</li> </ul>	<ul style="list-style-type: none"> <li>• For Projects in NSW, see <a href="#">Section 3.3.2</a> of these Tender Guidelines, which will be taken into consideration in addition to these requirements.</li> <li>• Commitments that provide economic benefits and empowerment for local communities.</li> <li>• Social Licence Commitments that consider and seek to address identified issues in the specific local community context as well as addressing any project-specific adverse impacts within the local community.</li> <li>• Strategies and activities to demonstrate how commitments will be achieved.</li> <li>• Completed components of the MC 9 Returnable Schedule that include any and all: <ul style="list-style-type: none"> <li>○ Shared community benefits.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• For Projects in NSW, demonstration of Social Licence Commitments that address the requirements noted here, in addition to the matters referred to in <a href="#">Section 3.3.2</a> of these Tender Guidelines.</li> <li>• Social Licence Commitments that have considered and incorporated community feedback and interests in the design of the initiatives and are tailored specifically to the local communities.</li> <li>• Commitments that demonstrate an understanding of and use of Australian supply chain opportunities (i.e. Australian manufacturers including in renewable components and materials, Australian steel and local procurement).</li> <li>• Bids that use the Australian Skills Guarantee major construction project targets as the basis for setting local employment targets for apprentices/trainees and for female employment.</li> </ul>

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> <li>The quality and impact as a result of implementation of initiatives will be valued over the quantum of initiatives.</li> </ul>	<ul style="list-style-type: none"> <li>Commitments to local employment, including skill development and training, and high labour standards adopted.</li> <li>Commitments related to use of Local Content, including locally sourced materials and suppliers that support the development of Australian supply chains, including in renewable components and materials (includes assessment of pre-COD CAPEX and post-COD OPEX).</li> </ul>	<ul style="list-style-type: none"> <li>Bids that can demonstrate commitments similar to those outlined in the NSW RESB Plan objectives for supply chain, use of steel products using locally milled steel, employment, skills and knowledge transfer, and fair and ethical practices.</li> <li>Commitments that maximise local workforce training and engagement strategies including through partnerships with trade unions, registered training organisations, group training organisations and established portable entitlement industry funds supported by evidence (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 and long-term unemployed)</li> <li>Evidence of adopting and practising high labour standards over and above existing workplace relations Law.</li> <li>Bids that involve project co-design with the community, co-ownership and co-investment opportunities, as well as benefit sharing governance models that promote strategic regional benefit disbursements.</li> <li>Evidence of local community commitments and shared benefits established, or to be established, that have a long-lasting and meaningful positive economic and social impact on the beneficiaries.</li> <li>Active involvement and decision making by local communities in the co-designing of benefit sharing schemes and ongoing community led or community involved decision making.</li> <li>Demonstration of commitments to shared benefits that exceed the minimum requirements of State/Territory or local government development / planning approval processes. In NSW specifically, this includes shared benefits beyond those included in Voluntary Planning Agreements contributions made to Council for Council control and use.</li> </ul>

## 3.3 Information for New South Wales Projects

This section 3.3 is relevant only to Projects in NSW.

### 3.3.1 Interaction with the NSW Roadmap access right processes

The CIS aims to complement existing NSW schemes when these are consistent with the objectives of the CIS.

The NSW Electricity Infrastructure Tender Round 5 process for SW REZ access rights (**Tender Round 5**) and EnergyCo's process for CWO REZ access rights traverse this CIS Tender 3 Process. These processes are being implemented under an existing NSW legislative framework as part of the [NSW Electricity Infrastructure Roadmap](#).

To participate in the Tender 3 Process, NSW Projects that require an access right to connect to the network must either:

- be currently participating in Tender Round 5 (for SW REZ) or the access rights application process conducted by EnergyCo (for CWO REZ); or
- intend to participate in future NSW access right processes for either a SW REZ access right or CWO REZ access right. These processes must have commenced by the Stage B – Financial Value Bid Closing Date and Time. If the relevant process has not commenced by this date or the Proponent is not participating in any access rights process that has commenced prior to that date, the Project will no longer be able to participate in the Tender 3 Process and the Proponent will be notified. At this time, no future access right schemes have been announced.

Proponents that are participating in the NSW access rights processes (or intend to participate in a future access rights process in the CWO REZ or SW REZ, which commences by Stage B – Financial Value Bid Closing Date and Time) and that intend to participate in this Tender 3 Process should note the following:

- To enter into a CISA, any Project that requires an access right to connect to the network will be required to obtain an access right as a condition precedent. This applies to Projects seeking access within the SW REZ or, CWO REZ.
- If a Proponent is successful in both an access right process and this Tender 3 Process, the milestone dates within the access rights agreements will need to be consistent with the milestone dates in the CISA entered into under this Tender 3 Process. Please refer to the [NSW Tender Round 5 Guidelines](#) for SW REZ and the [CWO application process](#) for further information.
- If a Project is granted an access right for a connection capacity that is below the Maximum Capacity stipulated in its Financial Value Bid, the Proponent must notify the Australian Government and AEMO as soon as practical and may be required to reduce its Maximum Capacity in its Financial Value Bid. The CISA may include provisions to enable the Maximum Capacity to be reduced should the access right be granted after the CISA is signed.



### 3.3.2 How NSW Projects will be assessed in the Tender 3 Process

#### Eligibility Criteria

For Projects in NSW, the requirements and application of certain Project Eligibility Criteria have been tailored for this Tender 3 Process to align with the following requirements of the *Electricity Infrastructure Investment Act 2020* (NSW):

- The committed status cut-off date for NSW Projects to be eligible to participate in this Tender 3 Process has been aligned to the equivalent date stipulated in the CIS (see EC 12).
- Projects seeking access rights to SW REZ or CWO REZ (through the current or future access rights processes) do not require a connection enquiry response from a network service provider to be eligible to participate in this Tender 3 Process (see EC 14). This is to reflect the different connection process for these Projects. The assessment of the connection pathway for these Projects will consider certainty and risks of the REZ connection process (see MC 2).

#### Merit Criterion 4 and Merit Criterion 5 – First Nations engagement and Community engagement

For Projects in NSW, MC 4 has been tailored for this Tender 3 Process to align with the following requirements of the *Electricity Infrastructure Investment Act 2020* (NSW):

- The assessment of engagement with First Nations peoples for Projects located in NSW will take into account the [NSW First Nations Guidelines](#) at the Project Bid Closing Date and Time.
- NSW Projects will need to demonstrate alignment to the NSW First Nations Guidelines regarding consultation with First Nations communities and the goals and aspirations for First Nations communities included in region-specific guidelines.
- NSW Proponents are strongly encouraged to apply for and maintain membership to the approved independent ombudsman scheme under the *Electricity Supply Act 1995* (NSW), the Energy & Water Ombudsman NSW, for the provision of effective External Dispute Resolution services to potentially impacted local communities and First Nations communities.
- NSW Projects seeking access rights will still be required to provide a Community Engagement Plan outlining their community engagement activities.

#### Merit Criterion 8 and Merit Criterion 9 – First Nations Commitments and Social Licence Commitments

For Projects in NSW, MC 8 and MC 9 have been tailored for this Tender 3 Process to align with the following requirements of the *Electricity Infrastructure Investment Act 2020* (NSW):

- Projects in NSW must take into account the First Nations Guidelines and the NSW RESB Plan (as at the Financial Value Bid Closing Date and Time) when developing First Nations and Social Licence Commitments under MC 8 and MC 9, respectively. Commitments towards achieving minimum requirements and/or stretch goals will be assessed against the requirements outlined in Table 7 based on the NSW RESB Plan.
- If a Project is not able to commit to any particular minimum requirement, the Proponent should stipulate what level of commitment it can give for the relevant requirement, and demonstrate best efforts made to achieve the minimum requirements with detailed justifications. Further details on NSW specific requirements will be provided in the First Nations and Social Licence Market Briefing.

- The employment and community purpose components of the access fee paid by access right holders will be assessed as contributing towards MC 9.

**Table 7: Minimum requirements and stretch goals related to MC 8 and MC 9<sup>7</sup>**

Supply chain inputs criteria <sup>8</sup>	Minimum requirement	Stretch goals
Before COD – development and construction phase (% of total CAPEX)	23%	78%
After COD – operation and maintenance phase (% of total OPEX)	35%	79%
Steel product and components using locally milled steel (% of total Steel)	95%	95%
Investment and innovation in the supply chain	Minimum requirement and stretch goal	
Commitment made to local supply chain, including for investment, innovation and environmentally sustainable procurement (cost in real AU\$)	For this Tender Process, Proponents are to make a voluntary but contractually binding commitment to investment and innovation.	
Employment, skills and knowledge transfer criteria	Minimum requirement	Stretch goals
Learning workers <sup>9</sup> (% of Total Project workforce)	20%	40%
Apprentices (% of all trades positions on a Project)	20%	30%
First Nations participation criteria	Minimum requirement	Stretch goal
<b>One or a combination of the following:</b>		
Subcontracting to Aboriginal-owned business (% of TPCV) <sup>10</sup>	1.5% <sup>11</sup>	10%, or the goal in the region-specific protocol under the First Nations Guidelines.
Direct workforce contribution for Aboriginal or Torres Strait Islander peoples (% of Australian based workforce / FTE)	1.5%	
Education, training or capacity building for Aboriginal staff or businesses directly contributing to the contract (% of TPCV)	1.5%	
Fair and ethical practice criteria	Minimum requirement	Stretch goal

<sup>7</sup> This section is based on the battery storage considerations in the NSW Renewable Energy Sector Board Plan (RESB).

<sup>8</sup> % for supply chain inputs, refers to goods and services procured from in Australia & New Zealand as a percentage of the relevant metric indicated below.

<sup>9</sup> Note: as defined in the NSW RESB Plan, a ‘learning worker’ is a worker without qualifications or who needs to update their qualifications or skills to meet the needs of the infrastructure Project. This includes trainees and apprentices. Once defined as a learning worker, the worker maintains this status for the duration of the Project. All workers on a Project who undertake accredited training count towards the learning worker requirement, not just construction workers. The Project workforce includes all people who contribute to the Project. This includes people such as managers, engineers, finance team, environmental team, safety team, construction employees consisting of supervisors, those in leadership roles, tradespeople and operators. People who undertake training organised by the contractor prior to employment are counted as learning workers only if they are employed on the Project. Training must be accredited vocational education and training (VET) or nationally recognised professional qualifications that meet the needs of the Project and can be full or part qualifications (such as one or more units of competency). It may be subsidised by government funding or through a fee-for-service arrangement. Participants in the NSW Government Trade Pathways Program are to be included as learning workers and count towards achievement of this outcome.

<sup>10</sup> The TPCV should be calculated as the sum of “total capital expenditure (CAPEX) amount of the Project” and “total operational expenditure (OPEX) amount over the life of the Project in relation to the Project” as calculated in the MC 8 Returnable Schedule and MC 9 Returnable Schedule. As the First Nations and Social Licence Commitments will become contractually binding on award, TPCV will be a defined term that is contractually enforceable in the relevant Project Documents.

<sup>11</sup> The minimum requirement for First Nations participation is expected to be increased to 3%. Proponents should align with the minimum requirement in the latest First Nations Guidelines available at the Financial Value Bid Opening Date.

Employment of underrepresented groups <sup>12</sup> (% of Total Project workforce) <sup>13</sup>	15%	25%
<b>Environmentally sustainable procurement criteria</b>		
<p>Numerical minimum requirements do not apply. Proponents are required to respond to evidence requirements to demonstrate environmentally sustainable procurement. This includes:</p> <ul style="list-style-type: none"> <li>• Alignment with NSW Net Zero Plan.</li> <li>• Alignment with NSW Circular Economy Policy Statement.</li> <li>• Sourcing materials according to EN15804, Green Building Council's or other appropriate sustainability framework.</li> </ul>		

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<sup>12</sup> 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.

<sup>13</sup> Means the total working hours that the Proponent will engage to deliver the Project, calculated as the number of FTE days the Proponent will engage to deliver the Project over the term multiplied by 7.6 hours. As the Social Licence Commitments will become contractually binding on award, TPW will be a defined term that is contractually enforceable in the relevant Project Documents.

# 4 Tender Conditions

## **Compliance with Tender Conditions**

The Tender 3 Process will be undertaken subject to these Tender Guidelines (including the Tender Conditions outlined in this section).

Unless otherwise expressly provided in these Tender Guidelines, or notified by the Australian Government, AEMO may exercise all rights and discretions and discharge any obligation of the Australian Government contained in these Tender Guidelines, other than the decision for the Australian Government to select a Successful Proponent with which to enter into Project Documents. Those rights, discretions and obligations include a number of important requirements in relation to the receipt and evaluation of Bids, including rights to:

- accept, reject or refuse to consider any Bid that does not comply with the requirements of these Tender Guidelines or the terms of the Project Documents, or which is incomplete;
- accept, reject or refuse to consider any registration lodged after the Registration Closing Date and Time, any Project Bid submitted after the Project Bid Closing Date and Time and/or any Financial Value Bid submitted after the Financial Value Bid Closing Date and Time (as applicable);
- provide (or not provide) responses to Proponent questions, including responses that clarify the Tender Process or these Tender Guidelines; and/or
- require a Proponent to address probity issues.

Proponents must ensure that all information (including their Bids) which they submit in response to these Tender Guidelines is complete, accurate, adequate and current and must not provide false or misleading information. If a Proponent is unable to provide any information required by these Tender Guidelines, this must be expressly set out in its Bid, with reasons given. Tenderers are required to advise the Australian Government and AEMO if there is a change to any information previously provided by them to the Australian Government or AEMO in, or in relation to, their Bid.

Bids must:

- be in English;
- be submitted in accordance with any format requirements specified in relevant Returnable Schedules;
- be priced in Australian dollars and all pricing must be GST exclusive; and
- use Microsoft Word .docx and Excel .xlsx formats, as required, when Word and Excel Returnable Schedules are to be submitted and, where specified in these Tender Guidelines, PDF format.

## **Additional instructions or materials**

The Australian Government or AEMO may issue additional instructions or materials such as Addenda, Returnable Schedules, guidance notes or legal documentation (including the Project Documents) ahead of the relevant Project Bid Closing Date and Time or the Financial Value Bid Closing Date and Time (as applicable). These additional instructions or materials may be issued at the absolute discretion of AEMO and the Australian Government.

## Other considerations

In addition to the Proponent's responses provided in the Online Portal and the Returnable Schedules, the following matters may be taken into account during the assessment of Bids:

- any matters that are revealed as a result of the Australian Government's or AEMO's own investigations or analyses in assessing the Bids, including during the phase identified in [Section 2.4](#);
- elements of a Proponent's response to one Merit Criterion when assessing another Merit Criterion. This includes the consistency of the Proponent's responses across different assessment criteria; and
- the Proponent's continuing compliance with the Eligibility Criteria and any re-assessment of any or all Merit Criteria.

## 4.1 Application and agreement to comply with these Tender Guidelines

By taking part in the Tender Process and by executing the Process Deed Poll, the Proponent agrees to be bound by, and agrees to ensure that (as applicable) its Associates act in accordance with, these Tender Guidelines. To the extent that the Proponent or any of its Associates does not agree to be bound by these Tender Guidelines, the relevant entity or person must not take any further part in the Tender Process. Proponents that do not agree to be bound by these Tender Guidelines will not be permitted to submit Bids.

Participation by a Proponent and its Associates in the Tender Process is subject to the Proponent complying, and ensuring that (as applicable) its Associates comply, with these Tender Guidelines.

All persons (whether or not they submit a Bid) who obtain these Tender Guidelines may only use these Tender Guidelines and the information contained within them in compliance with these Tender Guidelines.

By taking receipt of the Tender Guidelines and participating in the Tender Process, a Proponent is deemed to accept, acknowledge and agree, and by executing the Process Deed Poll, a Proponent expressly agrees:

- a. to comply with and be bound by these Tender Guidelines;
- b. to comply with all applicable Laws;
- c. that information provided to the Australian Government and/or AEMO during the Tender Process is for the benefit of the Australian Government; and
- d. to ensure that it and its Associates, comply with these Tender Guidelines.

These Tender Guidelines apply to:

- a. other information given, received, or made available arising from or in connection with these Tender Guidelines and/or the Tender Process, including any Addenda;
- b. the Tender Process and the participation of each Proponent and its Associates in the Tender Process; and

- c. any communications, including any presentations, meetings or negotiations (whether before or after the release of these Tender Guidelines), relating to these Tender Guidelines or the Tender Process.

The Tender Guidelines apply for the benefit of the Australian Government and AEMO.

In addition to any other remedies available to the Australian Government or AEMO under Law, contract, the Tender Process or these Tender Guidelines, any failure by the Proponent or any of its Associates to comply with any Law, contract, the Tender Process or these Tender Guidelines will, in the absolute discretion of the Australian Government or AEMO, and without limitation, entitle the Australian Government or AEMO to terminate the participation (or further participation) of the relevant Proponent and its Associates in either or both of this Tender 3 Process and any future CIS tender processes.

## 4.2 Interpretation

Except to the extent the context requires otherwise, in these Tender 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 body politic, a trust, a partnership, an unincorporated body or association or a government agency and any successor entity to those persons;
- g. a reference to a time is to Australian Eastern Standard Time (**AEST**), unless specified otherwise (e.g. as Australia Eastern Daylight Time (**AEDT**));
- h. a reference to a party in the Tender Guidelines 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 as they may be so modified, re-made or substituted;
- j. a reference to a Government agency includes any relevant successor (no matter how constituted) of the Government agency under a machinery of government change or that is performing any relevant function or responsibility that is or was performed at any relevant time by the Government agency;
- k. if the Proponent comprises more than one person or is a consortium, the obligations and Liabilities of the Proponent, under the Tender Guidelines including Tender Conditions or under the Process Deed Poll, apply to the Proponent, and each Consortium Member jointly and severally;
- l. no rule of interpretation applies to the disadvantage of the Australian Government or AEMO on the basis that the Australian Government or AEMO put forward the Tender Guidelines and/or the Process Deed Poll or because the Australian Government or AEMO is seeking to rely on a provision contained in the Tender Guidelines and/or the Process Deed Poll;

- m. if the Tender Guidelines or the Process Deed Poll purports to exclude Liability for a particular matter, such exclusion only operates to the extent permitted by Law;
- n. the Australian Government may give, modify, withhold, withdraw, make or exercise any action, approval, consent, decision or discretion or other function under the Tender Guidelines at the Australian Government's absolute discretion and at any time and without any Liability to any Proponent or prospective Proponent; and
- o. a reference to the Australian Government or to AEMO includes (when applicable) their officers, employees, servants, agents, contractors, consultants, nominees, licensees or advisers.

### **4.3 Not an offer**

The Proponent acknowledges and agrees, and must ensure that its Consortium Members, their Related Bodies Corporate (if any) and any Bid Entity, all acknowledge and agree, that these Tender Guidelines:

- a. are not an offer and, in particular, are not an offer to enter into any Project Document or other contract with any recipient of these Tender Guidelines;
- b. are only an invitation for persons to submit a Project Bid and, if applicable, a Financial Value Bid; and
- c. must not be construed, interpreted or relied upon, whether expressly or impliedly, as an offer capable of acceptance by any person.

Subject to the operation of [Section 4.1](#) and the Process Deed Poll, neither these Tender Guidelines, nor a Bid submitted by a Proponent, has any contractual effect in relation to any person proceeding with any Project or the Australian Government entering into the Project Documents with any person and does not create any contractual, promissory, restitutionary or other legal rights.

The Australian Government and AEMO are under no obligation to complete the Tender Process outlined in these Tender Guidelines or to recommend or accept a Bid or a Project. The Australian Government or AEMO may change the process, or the description of the requirements outlined in these Tender Guidelines, by issuing an Addendum.

To the extent permitted by Law, the Australian Government or AEMO will not under any circumstances be liable for any costs incurred by any person (including Proponents and their Associates) arising from or in connection with or relating to considering these Tender Guidelines or the Tender Documentation, preparing and submitting a Bid or otherwise participating in the Tender Process.

### **4.4 Liability**

Except as otherwise expressly provided in the Tender Guidelines or non-excludably provided by Law, no Proponent or Associate of a Proponent is entitled to make any Claim against the Australian Government or AEMO for any Liability incurred by any one or more of them arising out of, or in connection with:

- a. the Tender Guidelines (including the exercise or non-exercise of any discretion by the Australian Government or AEMO under the Tender Guidelines or any alleged representation contained in the Tender Guidelines);

- b. the Tender Process, or their participation in it, or the conduct of the Tender Process by the Australian Government or AEMO, in any respect;
- c. the submission of (or failure to submit or decision not to submit) a Bid;
- d. the Australian Government's or AEMO's evaluation of, or decision not to evaluate, a Bid, including any decision not to invite the submission of a Financial Value Bid;
- e. the Australian Government's selection of, or decision not to select, any Bid or Project to enter into any Project Documents;
- f. any omission from or inaccuracy in these Tender Guidelines or any Disclosed Information, or any failure to disclose information;
- g. any inspections of any site related to a Project;
- h. 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
- i. the making (or not making) of any recommendation by AEMO or any decisions by the Australian Government or the Minister in respect of any Proponent or Associate of a Proponent or their respective Bids or Projects.

The Proponent must indemnify, and must keep indemnified on demand, the Australian Government and AEMO from and against any Claim or Liability suffered or incurred by the Australian Government or AEMO arising out of, or in connection with:

- a. any breach by the Proponent or its Associates of the Tender Guidelines, including a failure to comply with the Tender Guidelines or any breach of a representation or warranty given by any of them pursuant to the Tender Guidelines;
- b. any Claim brought by the Proponent or any of its Associates against the Australian Government or AEMO or any of their respective Associates with respect to any of the matters or events identified in this [Section 4.4](#); or
- c. (if applicable) any site inspection, to the extent that the relevant Claim or Liability is caused by the act or omission, including any negligence of, the Proponent or its Associates including Arms' Length Associates.

Without limiting the foregoing, by proceeding in this Tender 3 Process the Proponent represents and warrants that it and its Associates will have no Claim, and will not bring any Claim, against the Australian Government or AEMO, or their Associates, arising from or in connection with the exercise or the failure to exercise the rights or discretions of the Australian Government or AEMO consistent with the rights and discretions set out in these Tender Guidelines including the Australian Government or AEMO's rights to vary, suspend or not proceed with all or any part of the Tender Process or not to enter into a contract with any Proponent.

The Proponent acknowledges and agrees, and must ensure that its Consortium Members, its and their Related Bodies Corporate (if any) and any Bid Entity acknowledge and agree, that the Australian Government and AEMO have relied on the representation and warranty set out above in deciding whether to consider a Bid.



## **4.5 No warranty**

Except to the extent otherwise required by Law, neither the Australian Government nor AEMO:

- 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 currency of the Tender Guidelines or the Disclosed Information;
- b. makes any warranty or representation as to the exercise or non-exercise of any executive or statutory discretion, right or power in connection with the Tender Guidelines, the Tender Process, any Project or any Bid; or
- c. accepts responsibility or is liable in any way for any Liability of whatever kind (whether foreseeable or not) however arising (including by reason of negligence or default), incurred by any person in connection with the Tender Guidelines, the Tender 3 Process, any Project, or any Disclosed Information, in preparing any Bid, or in the conduct of, participation in or outcome of the Tender Process.

## **4.6 No representations**

No representation made by or on behalf of the Australian Government or AEMO in relation to the Tender Process or its subject matter will be binding on any one or more of those parties unless that representation is expressly incorporated into any final Project Documents entered into in respect of the Project.

## **4.7 Compliance with protocols**

The Proponent must, and agrees to procure that each of its Associates (including its Arms' Length Associates) does, 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 Process as set out in these Tender Guidelines or otherwise advised by the Australian Government or AEMO consistent with these Tender Guidelines.

## **4.8 Confidentiality**

Unless publicly disclosed on a website operated by the Australian Government or AEMO related to the Tender Process, all Disclosed Information is confidential information of the Australian Government and AEMO.

The Disclosed Information is provided solely to enable Proponents and their Associates to consider the opportunity provided by this Tender 3 Process and to prepare and submit Bids.

The Proponent must, and must ensure that each of its Associates agrees to:

- a. only disclose Disclosed Information to a person who has a need to know (and only to the extent that the recipient has a need to know) that Disclosed Information for the Permitted Purpose;
- b. not use the Disclosed Information for any purpose whatsoever except the Permitted Purpose; and
- c. keep strictly confidential all Disclosed Information (subject to disclosure permitted under this section).

The obligations of confidentiality under this [Section 4.8](#) do not apply to the Proponent and its Associates to the extent that:

- a. prior to disclosure by the Australian Government or AEMO, the relevant Disclosed Information was rightfully known to and in the possession or control of that person and not subject to an obligation of confidentiality on that person; or
- b. that person is required by Law to disclose the relevant Disclosed Information, provided that that person:
  - i. promptly gives notice to the Australian Government and AEMO; and
  - ii. makes disclosure on terms which preserve the confidentiality of the Disclosed Information to the greatest extent possible.

The Proponent must, and must ensure that each of its Associates agrees to:

- a. ensure, at all times, that each person to whom Disclosed Information has been disclosed in accordance with this [Section 4.8](#) complies with the requirements of confidentiality in these Tender Guidelines;
- b. promptly notify the Australian Government or AEMO if it becomes aware of a suspected or actual breach of this [Section 4.8](#) or any unauthorised disclosure or use of the Disclosed Information; and
- c. promptly take all reasonable steps to prevent or stop any such suspected or actual breach or unauthorised disclosure or use.

The Proponent must not, and must ensure that each of its Associates does 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 4.8](#), as well as the compliance of their Associates, Consortium Members and the Consortium Members' Associates.

At any time, the Australian Government or AEMO may request the Proponent or its Associates to enter into a confidentiality agreement or deed in respect of any specific Disclosed Information in a form and substance determined by the Australian Government or AEMO in its sole and absolute discretion. In that case, the Proponent must, and must ensure that its relevant Associate do, enter into that agreement or deed within ten (10) Business Days after being requested to do so. If they do not do so, they may be excluded from further involvement in this Tender 3 Process.

## **4.9 Intellectual Property Rights**

Unless otherwise indicated in these Tender Guidelines, the Australian Government or AEMO (as applicable) owns such IP Rights as may exist in these Tender Guidelines and the Disclosed Information. Proponents and their Associates are permitted to use and copy these Tender Guidelines and the Disclosed Information for the sole purpose of considering the opportunity provided by this Tender 3 Process and preparing and submitting a Bid.

Upon submission of any Bid documents in this Tender 3 Process, each physical or electronic Bid document and any media on which they are contained becomes the property of the Australian Government. Neither the Australian Government nor AEMO will return any Bid documents, or any media on which they are contained (or any copies that are made), to Proponents. A Proponent (or other relevant person) will retain ownership of any IP Rights contained in each Bid Document it

submits. The submission of a Bid document does not transfer to the Australian Government or AEMO any ownership interest in the IP Rights of the Proponent (or other relevant person) in that document, or give the Australian Government or AEMO any IP Rights in relation to the relevant Bid document, except as expressly set out below.

By submission of a Bid, the Proponent grants, and must ensure that each relevant Associate grants, to the Australian Government and AEMO, an irrevocable, perpetual, non-exclusive, transferable, worldwide, free-of-charge licence to use, reproduce, develop, communicate, modify and/or sub-license the whole or any part of any Bid for the purposes of:

- a. evaluating and negotiating Bids, supporting the Australian Government's and AEMO's due diligence and strategic risk-assessment of the Bid and for the Tender Process, and otherwise facilitating competitive tendering pursuant to the Tender 3 Process;
- b. providing generalised learnings and improvements to any future tender processes, including any tender guidelines and other tender documentation, on a de-identified basis;
- c. provision to a person to the extent necessary in connection with an exercise of rights contained in these Tender Guidelines;
- d. provision to any Commonwealth Entity or Authority, when this serves the Commonwealth's legitimate interests, including to the Australian National Audit Office;
- e. provision to the officers, employees, agents, contractors, legal and other advisers and auditors (as applicable) of the entities set out in the preceding paragraphs; and
- f. making any other disclosure that is permitted by [Section 4.20](#) of these Tender Guidelines

By submission of a Bid, the Proponent warrants that it and each relevant Associate has the authority to grant the licence contemplated in this [Section 4.9](#) and that the exercise by the Australian Government or AEMO, or any person authorised by it or them, consistent with, or as contemplated by, the Tender Guidelines, will not infringe the IP Rights, moral rights or any other rights of any person.

The Proponent (on its own behalf and on behalf of each of its Associates) must indemnify, and by submitting its Bid undertakes to indemnify, the Australian Government and AEMO against any Liability or Claim incurred or received by the Australian Government or AEMO arising from any breach of the warranty in this [Section 4.9](#).

Further, by submitting any Bid, the Proponent acknowledges and agrees, and undertakes to ensure that its Consortium Members, its and their Related Bodies Corporate (if any) and any Bid Entity agree, that the Australian Government or AEMO may, consistent with the requirements of applicable policy, publish (on the internet or otherwise):

- a. the name of the successful or recommended Proponent(s) and Bid Entity(s);
- b. the value of the successful Bids; and
- c. the Proponent's and the Bid Entity's name and the names of other Consortium Members, together with the provisions of the Project Documents generally.

Proponents must ensure that they have obtained the necessary permissions to grant the above authority and rights to the Australian Government and AEMO, including from any persons who may have moral rights in respect of any part of a Bid.

## **4.10 Others to be bound**

The Proponent must ensure that each of its Associates to which or whom these Tender Guidelines and/or any Disclosed Information apply or which or who participate in the Tender Process, agrees to be bound by the Tender Guidelines and complies with these Tender Guidelines.

## **4.11 Continuing obligations**

The obligations of a Proponent under (and of each Associate arising from) these Tender Guidelines survive the termination or expiration of the Tender Process and the Project.

## **4.12 Illegible content, alteration and erasures**

Incomplete Bids may be rejected or evaluated solely on the information contained in the Bid. The Australian Government or AEMO may disregard any content in a Bid that is illegible and will be under no obligation whatsoever to seek clarification from the Proponent.

The Australian Government or AEMO may permit a Proponent to correct an unintentional error in their Bid if that error becomes known or apparent after the relevant Closing Date and Time, but in no event will any correction be permitted if AEMO or the Australian Government reasonably considers that the correction would materially alter the substance of the Proponent's Bid.

## **4.13 Requests for clarification and further information**

If a person:

- a. finds any discrepancy or error in, or has any doubt as to the meaning or completeness of, these Tender Guidelines, the Disclosed Information or the Tender Process, they must; or
- b. requires clarification on any aspect of these Tender Guidelines, the Disclosed Information or the Tender Process, they may,

notify AEMO in writing through the process described in [Section 4.39](#). If paragraph a. applies, that notice must be provided as soon as reasonably practicable after that discrepancy, error or doubt as to meaning or completeness is discovered and in any event not less than five (5) 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). AEMO or the Australian Government may make identified questions and clarifications available to all Proponents in accordance with [Section 4.39](#). AEMO or the Australian Government may also publish an Addendum to all Proponents at any time, including to clarify the discrepancy, error, doubt or query (as the case may be), and may extend the Tender Registration Closing Date and Time and/or any relevant Closing Date and Time if AEMO or the Australian Government, in their absolute discretion, consider it appropriate in all the circumstances.

The Australian Government and AEMO reserve their right to not respond to any question or request, irrespective of when it is received.

No representation or explanation provided to Proponents or their Associates as to the meaning of these Tender Guidelines, or as to anything to be done or not to be done by the Proponent, in each case by the Australian Government or AEMO, will be taken to be included in these Tender Guidelines or Tender Process, unless it is contained in an Addendum.

### **Meetings with the Australian Government and/or AEMO**

Notwithstanding the above, the Australian Government or AEMO may invite a Proponent, or any of its Associates, to attend meetings with the Australian Government or AEMO or an Authority during the Tender Process to discuss issues arising in relation to the preparation of a Bid, the Project or the Tender Process, including for the purpose of maximising the benefits of the Tender Process as measured against the Eligibility Criteria and Merit Criteria set out in these Tender Guidelines or to fully understand a Proponent's Bid including risk allocation. In its absolute discretion, the Australian Government or AEMO may invite some or all of the Proponents to give a presentation to the Australian Government and AEMO in relation to their Bids.

The Australian Government and AEMO are under no obligation to undertake discussions with, or to invite any presentations from, Proponents.

If the Australian Government or AEMO requests a meeting (whether the meeting is with the Australian Government, AEMO or an Authority):

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

Except to the extent that these Tender Guidelines specify to the contrary, information provided at any time by or on behalf of the Australian Government or AEMO to the Proponent and/or its Associates may also be provided by or on behalf of the Australian Government or AEMO to a Competing Proponent and will be provided by or on behalf of the Australian Government or AEMO to all Competing Proponents if that is necessary to ensure fairness.

Nothing that occurs, and no information that is provided, at a meeting may be relied on by the Proponent or its Associates unless subsequently confirmed in writing by the Australian Government or AEMO.

### **Clarification of a Bid**

The Australian Government or AEMO may seek clarification and information from, and enter into discussions with, any or all of the Proponents (including a shortlist of Proponents) in relation to any of their Bids, including any technical, financial, corporate or legal components of the Bids. The Australian Government and AEMO may use such clarification and information received in interpreting a Bid and in evaluating the cost and risk to the Australian Government of accepting the relevant Bid. Failure to supply a clarification or other information to the satisfaction of the Australian Government and AEMO may render a Bid at risk of rejection.

The Australian Government and AEMO are under no obligation to seek clarification of (or information regarding) anything in a Bid and each of the Australian Government and AEMO reserve the right to disregard any clarification and information that the Australian Government and AEMO

considers to be unsolicited or otherwise impermissible, consistent with the rules set out in these Tender Guidelines.

### **Authority to Seek Further Information**

By submitting a Bid, the Proponent:

- a. agrees that the Australian Government and AEMO may (and authorises each of them to) undertake due diligence and investigations in respect of, seek further information about, and enquire into, the Proponent and any of its Associates, the proposed Project, any Bid submitted as part of the Tender Process including its or their financial position and any claims made in a Bid regarding the Project or the capability and experience of the Proponent and its Associates (including seeking information from any Government Agency);
- b. agrees that the Australian Government and AEMO may (and authorises each of them to) undertake investigations, seek further information about, and enquire into the status of, the network connection process, Generator Performance Standard (GPS) Compliance and technical information with AEMO or relevant network service provider, which may include the Australian Government asking AEMO to assess the portfolio impact of Projects on the network through detailed power systems modelling. The Proponent expressly consents to AEMO disclosing such information under section 54B of the NEL;
- c. acknowledges and agrees that any additional information obtained in the processes referred to in paragraphs a. and b. may be taken into account in the evaluation of Bids (including as described in [Section 2.4](#)); and
- d. acknowledges and agrees that the Proponent will have no Claim against the Australian Government and its Associates in defamation, or otherwise, with respect to any matter arising out of the provision or receipt of information by the Australian Government and/or AEMO to or from, any other Territory, State or Commonwealth government agency for the above purposes.

### **Prohibited Conduct**

Proponents must not, and must ensure that their respective Associates do not:

- a. seek or obtain the assistance of the Australian Government or AEMO (or any person who has been an Associate of the Australian Government or AEMO within the 12 months prior to the Registration Date) in the preparation of a Bid (other than as permitted under these Tender Guidelines or approved in writing by the Australian Government); or
- b. lobby the Australian Government or AEMO or otherwise take actions to influence the outcome of this Tender Process (other than as permitted under these Tender Guidelines).

In addition to any other remedies available to it under Law or contract, the Australian Government or AEMO may, in its or their absolute discretion, disqualify a Proponent or any of its Associates, that it believes has improperly sought or obtained such assistance or engaged in such activity.

## **4.14 Conflict of Interests**

### **Primary obligation in relation to conflict of interests and notification requirements**

A Proponent must not, and must ensure that its Associates do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interests during the Tender Process. Without limitation, a conflict of interests will be considered to arise if the Proponent or any

of its Associates, without the written approval of the Australian Government or AEMO, obtains advice, assistance or information from a person who is currently advising, or has previously advised:

- a. the Australian Government or AEMO in respect of the CIS or the Tender Process or any related matters; or
- b. a Competing Proponent in respect of the Tender Process, its Bid or any Project that is or is intended to be the subject of its Bid.

Subject to and in accordance with [Section 4.39](#), all notifications required to be made by Proponents or their Associates (as applicable) to the Australian Government and AEMO under this [Section 4.14](#) or otherwise, in relation to an actual, potential or perceived conflict of interests relating to the Tender Process or Project, must be made using, and consistent with, the conflict of interests form made available to registered Proponents on the Online Portal.

If, in respect of a Proponent, any of its Associates, or its Bid or Project, any:

- c. actual, potential or perceived conflict of interests in respect of the Tender Process, a Bid or a Project arises or is discovered; or
- d. fact, matter or thing which may have an adverse effect on the Tender Process, or which may affect the probity or perception of probity in respect of the Tender Process,

the Proponent or Consortium Member, as relevant, must:

- e. promptly notify the Australian Government and AEMO of the actual, potential or perceived conflict of interests or adverse effect;
- f. provide sufficient detail to the Australian Government, AEMO and the Probity Advisor as to the nature and extent of the actual, potential or perceived conflict of interests or adverse effect, including any information reasonably requested by the Australian Government or AEMO in relation to that conflict of interests or adverse effect; and
- g. take any steps that the Australian Government or AEMO reasonably requires to address that actual, potential or perceived conflict of interests or adverse effect.

### **Conflict of interests between Competing Proponents**

By participating in this Tender 3 Process, the Proponent:

- a. confirms, in relation to its Bid and its Project, that, except as may be disclosed to and consented to by AEMO or the Australian Government in writing (either conditionally or unconditionally and at their absolute discretion), the Proponent and each of its Associates (as applicable) is not and will not become:
  - i. a member of, or otherwise be involved with, a Competing Proponent or Consortium Member of a Competing Proponent; or
  - ii. an Associate of the Australian Government or involved with the Australian Government or AEMO,  
in each case in respect of the Tender Process; and
- b. undertakes to promptly notify AEMO if:
  - i. it receives confidential information of a Competing Proponent or a Consortium Member of a Competing Proponent (such notice to include the nature and extent of the confidential information); or

- ii. it becomes involved with a Competing Proponent or Consortium Member of a Competing Proponent or becomes an Associate of the Australian Government in respect of the Tender Process;
- c. warrants that no actual, potential or perceived conflict of interests has arisen or will arise in respect of the Proponent or its Associates in respect of the Tender Process; and
- d. acknowledges and agrees that the Australian Government or AEMO has the right to exclude the Proponent and/or any of its Associates from the Tender Process if any of them do not comply with this [Section 4.14](#).

#### **Conflicts of interest regarding Associates**

In addition to the primary obligation on Proponents above in this [Section 4.14](#), the Australian Government or AEMO may, at any time during a Proponent's participation in the Tender Process, request a list of any or all of a Proponent's current Associates, including Arms' Length Associates, and the Proponent must provide the list or lists requested within two (2) Business Days after receipt of any such request from the Australian Government or AEMO.

The Proponent acknowledges and agrees, and must ensure that each of its Associates acknowledges and agrees, that the Proponent and its Associates must not be an Associate of:

- a. a Competing Proponent;
- b. a Consortium Member of a Competing Proponent; or
- c. the Australian Government or AEMO,

unless:

- a. the Proponent has first notified the Australian Government and AEMO of that fact;
- b. the Proponent has received written consent from the Australian Government or AEMO (either conditionally or unconditionally and at their absolute discretion) to the relevant person being an Associate for both the Proponent or a Consortium Member and for the Competing Proponent, Consortium Member or the Australian Government or AEMO (as applicable);
- c. the Proponent has provided written confirmation to the Australian Government and AEMO 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 Australian Government or AEMO has confirmed that such Conflict Protocols are acceptable and have been implemented by the relevant parties to the satisfaction of the Australian Government and AEMO.

If at any time the Australian Government or AEMO rejects the Conflict Protocols, or the affected Proponent or its Associate fails to observe such agreed arrangements, then the Australian Government and AEMO reserve the right (without limitation to any other discretion or action) to terminate the further participation in the Tender Process of the Proponent or Associate or both.

The Australian Government and AEMO reserve the right to request a probity audit at the conclusion of the Tender 3 Process or at the Australian Government or AEMO's discretion during the Tender 3 Process.



### **Conflict of interests between the Australian Government and a Proponent**

In addition to the primary obligation on Proponents and Associates set out above in this [Section 4.14](#), a Proponent (in relation to its Bid or Project) must promptly notify the Australian Government and AEMO if it is aware of any relationship the Proponent or any of its Associates may have with any person involved in or connected with the Project or the administration of the Tender Process, or any experts, consultants or advisers, appointed by the Australian Government or its Associates for the purposes of the Tender Process.

The Australian Government may, in its absolute discretion, decide not to evaluate (or not to continue to evaluate) a Bid of a Proponent if the Australian Government believes that the Bid was prepared (in whole or in part), or was otherwise assisted, by a person if that person:

- a. is or was an Associate of, or was otherwise engaged by, the Australian Government at any time after the date 12 months prior to the Registration Date; or
- b. is or was involved in the management of the Tender Process, 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 Australian Government or AEMO to have a person described above contribute to or participate in the Tender Process and/or preparation of its Bid. If a Proponent makes such a request, the Australian Government may, in its absolute discretion, at any time:

- a. grant permission, whether with or without such conditions as the Australian Government or AEMO thinks fit; or
- b. refuse permission.

### **Industry Members of AEMO**

Notwithstanding anything to the contrary in these Tender Guidelines, the fact that a Proponent or any of its Associates is an industry member of AEMO will be ignored for the purpose of determining whether an actual, potential or perceived conflict exists between the interests of the Australian Government or AEMO and the interests of a Proponent or its Associates during the Tender Process.

## **4.15 No anti-competitive conduct**

Proponents must not, and must ensure that their respective Associates do 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; or
- d. the conduct of negotiations between the Australian Government, AEMO and the Proponent or a Competing Proponent,

in each case in respect of the Tender Process.

For the purposes of this [Section 4.15](#), collusion, anti-competitive conduct or any other similar conduct may include having access (or seeking access) to, or disclosure, exchange or clarification of, information related to this Tender Process from, to or with the Australian Government or AEMO, any Competing Proponent or Consortium Member or any other person or organisation.

Without limiting the foregoing, the Proponent acknowledges and agrees, and must ensure that each of its Associates acknowledges and agrees, that it or they must not attempt to obtain any advantage for itself or themselves, or for any other person or entity, by:

- a. seeking information in relation to the Tender Process other than through the means set out in the Tender Guidelines; or
- b. attempting to influence the Australian Government or AEMO in relation to the Tender Process through any means apart from communications consistent with the Tender Guidelines.

In addition to any other remedies available to it under Law or contract, the Australian Government or AEMO may, in their absolute discretion, disqualify a Proponent or any of its Associates if that Proponent or Associate (as applicable) has engaged in any collusion, anti-competitive conduct or any other similar conduct in respect of the Tender Process.

## **4.16 Submitting a Bid**

Except to the extent otherwise permitted by the Australian Government, AEMO or these Tender Guidelines, a Bid must meet the requirements for submission set out in these Tender Guidelines.

The Australian Government and AEMO will assess the Proponent's Bid in reliance on (among other things) the declarations and information given in the Bid Form, and any related documents or information provided by or on behalf of the Proponent and its Consortium Members, and may suffer loss if any of the declarations, documents, information, representations, warranties, undertakings, consents or other statements provided by or on behalf of the Proponent or its Consortium Members, are false or misleading.

The Proponent and its Consortium Members acknowledge and agree that giving false or misleading information to the Commonwealth:

- is a serious offence under subsection 137.1 of the Commonwealth Criminal Code;
- may lead to exclusion of the Proponent from this Tender 3 Process and subsequent CIS tender processes; and
- may lead to termination for default of any CISA that may be entered into with a Successful Proponent and the payment of damages.

## **4.17 Change to Proponent structure and Consortium Members**

The Proponent must notify AEMO promptly in writing of any change in:

- a. the structure or ownership of a Proponent, including any Consortium Member or Bid Entity (excluding changes in ownership of a publicly listed entity);
- b. the appointment, termination or replacement of a Proponent, Consortium Member or Bid Entity (and such notice must include details of the nature of the appointment, termination or replacement as applicable); or
- c. the scope or terms of the appointment of a Proponent, Consortium Member or Bid Entity.

All notifications required to be made by Proponents to AEMO under this [Section 4.17](#), including in relation to a change in any of the matters referred to in the previous paragraph, must be made using, and be consistent with, the “CIS T3 Notification or Clarification to AEMO Services” form available to registered Proponents on the Online Portal.

Upon receipt of any notice pursuant to this [Section 4.17](#), the Australian Government and AEMO reserve the right (without limitation to any other discretion or action) to:

- a. require the relevant party(s) to enter into a document acknowledging that it or they are bound by and undertake to comply with these Tender Guidelines or to take any further action required by the Australian Government or AEMO;
- b. assess the relevant change in circumstances and elect to terminate the Proponent’s or any Consortium Member’s further participation in the Tender Process; and/or
- c. invite the Proponent to amend its Bid accordingly.

Without limiting the above, following submission of the Project Bid, changes to any of the matters referred to in the first paragraph of this [Section 4.17](#) must not be made without notifying the Australian Government or AEMO and obtaining their prior written consent to continue to participate in the Tender Process.

## **4.18 Material disclosures**

The Australian Government and AEMO have received (and will continue to receive) advice and/or assistance in relation to these Tender Guidelines, the Tender Process and the Project:

- a. in the case of AEMO, from its consultants and advisers and such other consultants and advisers as may be advised from time to time by AEMO on its website or by direct communication to Proponents; and
- b. in the case of the Australian Government, from AEMO and from the Australian Government’s and AEMO’s consultants and advisers and such other consultants and advisers as may be advised from time to time by the Australian Government on its website or by direct communication to Proponents.

These parties are likely to be involved in assisting the Australian Government to assess Bids.

The Proponent acknowledges and agrees, and must ensure that each of its Associates acknowledges and agrees, that it has been made aware of the matters outlined in this [Section 4.18](#).

## **4.19 Proponents to perform own due diligence**

The Proponent must, and must ensure that its Consortium Members do, carry out all relevant investigations, make their own reviews and evaluations, and examine and acquaint themselves in respect of the following matters (as relevant to each of them):

- a. all aspects of the Project and the requirements of the Tender Process and these Tender Guidelines;
- b. the contents, completeness, accuracy, adequacy and currency 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 Australian Government or AEMO.

The Proponent acknowledges and agrees, and must ensure that each of its Consortium Members acknowledges and agrees, that, except where expressly stated otherwise in these Tender Guidelines or Disclosed Information, the Australian Government and AEMO have not verified the information contained in these Tender Guidelines and the Disclosed Information, and that such information should not be regarded as a substitute for the exercise of its own judgement by the Proponent and its Consortium Members. The Proponent and its Consortium Members may not in any way rely upon a failure by the Australian Government or AEMO to provide any information. By participating in the Tender Process, including by submitting any Bid, the Proponent, and each of its Consortium Members, acknowledges and agrees that it has not in any way relied upon information provided by the Australian Government or AEMO or upon a failure by the Australian Government or AEMO to provide information.

By submitting a Bid, a Proponent, and each of its Consortium Members, is taken to have:

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

These Tender 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 Process, the NEL, the NEM, the NER, and any other applicable Laws, procedures or policies.

## **4.20 Bids Commercial-in-confidence**

The Australian Government and AEMO will retain all Bids and may, at any time, copy and distribute Bids for the purposes of designing, facilitating and conducting the Tender Process, including negotiation and evaluation of Bids, and to support its and their due diligence and strategic risk-assessment. Bids will be treated as confidential, and information contained in them will not be disclosed outside the Australian Government and AEMO unless that disclosure is:

- a. required or permitted by Law, or in the course of legal proceedings;
- b. of information which is publicly available, or becomes publicly available other than through a breach of this provision;
- c. of deidentified information disclosed in the public interest for the purposes of informing the market of tender outcomes including (but not limited to):
  - i. the number of Bids received and the average number of Bids per Proponent;
  - ii. the distribution of the Bids received across each of the Merit Criteria;
  - iii. the levels of scoring or price from Bids, including as they may delineate successful and unsuccessful Bids; or
  - iv. graphical or numerical information on any aspect of a Bid or the Bid evaluation;
- d. requested by any Authority having jurisdiction over the Australian Government, AEMO or its or their activities;
- e. requested by any relevant Commonwealth Ministers or their advisers, any relevant parliament, parliamentary committee, ombudsman or anti-corruption commission (or similar body in any jurisdiction);

- f. required by AEMO or the Australian Government when, in order to conduct due diligence, they contact a relevant Australian Government, State or Territory Government or other relevant parties about a Bid, Project or Proponent;
- g. requested by the Consumer Trustee or EnergyCo, where the Proponent of the relevant Bid has also submitted a bid in respect of the Project in the NSW Tender Round 5 process, the CWO REZ access rights application process or any future access right processes, as relevant, for the Project to which that Bid relates;
- h. consistent with the ordinary transparency or reporting processes of the Commonwealth; or
- i. provided to the Australian Government's Associates including Government agencies and entities, insurers or subject matter experts, for any purpose described in this [Section 4.20](#) and in [Section 4.21](#).

## **4.21 Use of Bids and disclosure of Bid information**

Bids may be used in accordance with the licence granted in [Section 4.9](#) and the rights and limitations specified in [Section 4.20](#).

The Proponent consents to AEMO or the Australian Government disclosing its name and any Project details to the Consumer Trustee and/or EnergyCo if the Proponent of the relevant Bid has also submitted a bid in the NSW Tender Round 5 process, the CWO REZ access rights application process or any future access rights processes, as relevant for the Project to which that relevant Bid relates.

Pursuant to the NSW Tender Round 5 Guidelines, the Consumer Trustee may also disclose a NSW Tender Round 5 proponent's name and any project details to the Australian Government, if that proponent may be invited to enter into an LTESA or granted access rights in relation to a project that is the subject of a Bid in this Tender Process. The Australian Government and AEMO may use any such information received from the Consumer Trustee for the purposes of due diligence on the Proponent's Bid in the Tender Process.

## **4.22 No amendment**

A Proponent may not amend its Bid after it has been submitted, unless invited or permitted to do so by the Australian Government or AEMO.

## **4.23 Withdrawal of Bid**

A Proponent that wishes to withdraw or revoke a Bid must promptly notify the Australian Government or AEMO of that fact and the reasons for the Proponent's withdrawal or revocation. Upon receipt of such notification the Australian Government and AEMO will cease to consider that Bid and that Bid will be automatically withdrawn.

## **4.24 Bid Entities**

Persons are permitted to form a consortium to participate as a Proponent and to deliver the Project to the Australian Government.

The Proponent warrants that its Bid accurately identifies:

- a. the Proponent (including its corporate structure and structure and membership of the Proponent); and

- b. any Consortium Members (including the corporate structure and structure and membership of the Consortium Members); and

its and their respective Related Bodies Corporate.

Proponents are also required to nominate a Bid Entity in accordance with the [Proponent Eligibility Criteria](#). Subject to the [Proponent Eligibility Criteria](#), the Bid Entity must be an Australian special purpose vehicle incorporated for the purpose of the CIS to enter into the Project Documents, to enable the revenues and costs of the relevant Project to be separately assessed and monitored under Project Documents. This Section outlines the requirements for a Proponent depending on its structure.

**If the Bid Entity is known and available to register to participate in Tender Process**

If the Bid Entity is available for registration at the commencement of the Tender Process (regardless of whether it is owned by a consortium or a single entity), then that Bid Entity must be the Proponent for the purposes of these Tender Guidelines and the Bid.

**If the Bid Entity is not available to register to participate in Tender Process**

If a Bid Entity is not available for registration at the commencement of the Tender Process (e.g., a special purpose vehicle is intended to be incorporated later in the Tender Process), then the legal entity which registers a Project on the Online Portal will (unless otherwise agreed with the Australian Government) be the Proponent for the purposes of the Tender Process.

## **4.25 No requirement to return**

The Proponent, and each of its Consortium Members, acknowledges and agrees that the Australian Government and AEMO will not be required to return the Bid, or any other documents, materials, articles and information submitted by or on behalf of the Proponent or any Consortium Member as part of, or in support of, its Bid.

## **4.26 No reimbursement of costs**

A Proponent's, and each of its Associates', participation or involvement in any part or the whole of the Tender Process is at the sole cost and risk of the Proponent and its Associates, as applicable.

Neither the Australian Government nor AEMO will be responsible for, and no Proponent or its Associates is entitled to be reimbursed for or to make a Claim in respect of, any Liability incurred arising from or in connection with or related to considering the opportunity, the preparation or submission of a Bid, or participation or involvement in the Tender Process, including any Liability incurred in attending meetings with the Australian Government or AEMO, or providing any further clarification requested by the Australian Government or AEMO, or for any work undertaken in relation to any Project.

## **4.27 No publicity**

Except to the extent required by Law, or the binding requirement of a recognised stock exchange, the Proponent must not, and must ensure that each of its Associates does not, make any public or media announcement or participate in or be party to any media reports in respect of these Tender Guidelines, the Tender Process, the Project or a Bid, including their involvement in the Tender Process, or the outcome of this Tender Process, without the Australian Government's or AEMO's

prior written consent, such consent to be provided in the absolute discretion of the Australian Government.

## 4.28 Discretions

The Australian Government or AEMO may give, modify, withhold, withdraw, make or exercise any action, approval, consent, decision or discretion or other function under the Tender Guidelines at the Australian Government's or AEMO's absolute discretion, whether subject to conditions and at any time. In exercising these discretions, the Australian Government or AEMO will give regard to probity considerations.

The Proponent acknowledges and agrees, and must ensure that each of its Associates acknowledges and agrees, to the Australian Government's and AEMO's right, at the Australian Government's and AEMO's absolute discretion, to:

- a. reject, refuse or cease to consider, or accept, any Bid that does not comply with the requirements of these Tender Guidelines or which is otherwise incomplete;
- b. suspend or terminate the Tender Process;
- c. not further consider any Proponent or Bid that fails to satisfy the Eligibility Criteria or the Merit Criteria;
- d. reject or accept any Bid notwithstanding whether such Bid is 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 Process, including making a recommendation (or not making a recommendation) to designate as a Successful Proponent a Proponent which had (or did not have) the highest ranked Bid as against the Eligibility Criteria or the Merit Criteria;
- f. make or not make any decision to designate as a Successful Proponent any Bid or Project, including those which are recommended to the Australian Government by AEMO;
- g. 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;
- h. suspend or terminate a person's participation in the Tender Process, if the Australian Government or AEMO forms the view that the person (or one or more of their Associates) has breached or not complied with the Tender Guidelines. For the avoidance of doubt, neither the Australian Government nor AEMO is obliged to exclude a Proponent, Consortium Member or any other person from continued participation in the Tender Process in the event that a Proponent, Consortium Member or any other person fails in whole or part to comply with the Tender Guidelines;
- i. 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 Australian Government or AEMO may, at its sole and absolute discretion, take such information, material, clarification or explanation into consideration in their evaluation of a Bid;
- j. if additional information is required by the Australian Government or AEMO pursuant to subparagraph (i), and it is not provided within the timeframe nominated by the Australian Government or AEMO (if any), continue to evaluate the Bid on the basis of the information provided or otherwise available;
- k. waive any or all (in whole or in part) of the obligations of the Proponent or its Associates (or a Competing Proponent or its Associates) under the requirements of these Tender Guidelines;

- l. consider and accept a Bid regardless of whether any Proponent or its Associates has breached or not complied with the Tender Guidelines and despite the existence of departures from the Tender Guidelines, the technical specifications, or the Project Documents, for the Project;
- m. vary or supplement any part of these Tender Guidelines;
- n. without limiting sub-paragraph (m), cancel, supplement, vary or amend the terms of any information, requirements, procedures, selection criteria and protocols relevant to the Tender Process having regard to probity requirements and advice;
- o. change the timing, order or application of any phase or process in the Tender Process or supplement, remove, add to or vary any part of the Tender Process;
- 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 Tender Guidelines;
- q. accept or reject any clarification question or request for a meeting which is lodged by a person in respect of the Tender Process after the time and date specified, or other than in the manner specified, in these Tender Guidelines as the Closing Date and Time or manner specified for such questions or requests;
- r. extend any time or date specified in these Tender Guidelines;
- s. call for new Bids;
- t. negotiate with the Proponent or its Consortium Members or any Competing Proponent or its Consortium Members on any matter the Australian Government or AEMO may determine, including allowing the Proponent or a Competing Proponent to clarify, alter, amend, add to or change its Bid after the relevant Closing Date and Time without offering the same opportunity to one or more other Proponents;
- u. in evaluating any Bid, preparing the Project Shortlist or Financial Value Shortlist, or selecting a Successful Proponent, have regard to:
  - i. past performance and corporate history of any Proponent or its Associates;
  - ii. information concerning any Proponent or its Associates which is in the public domain, or which is obtained by the Australian Government or AEMO through its or their own investigations;
  - iii. information provided by any Proponent or Consortium Member in response to a particular Eligibility Criterion or Merit Criterion for the purpose of evaluating other criteria;
  - iv. any other matters arising from investigations (including probity investigation) by the Australian Government or AEMO, interviews with Proponents or Consortium Members, or responses to clarification questions given by Proponents or Consortium Members and without notifying the Proponent or a Consortium Member and/or Associate (if applicable) of that information; and
  - v. the national electricity objective;
- v. appoint or decline to appoint any number of Successful Proponents or change Successful Proponents at any time;
- w. require the Proponent or any Competing Proponents to make a 'best and final offer';
- x. withdraw, cancel or modify (substantially or otherwise) the CIS or any part of the CIS;
- y. change the Tender Process or any part of the CIS in any way it sees fit (including adding an additional Stage or round of clarifications) and commence a new Tender Process in relation to the CIS on a similar or different basis to that outlined in these Tender Guidelines, having regard to probity matters, if any;



- z. 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; and
- aa. otherwise take any such other action as it considers appropriate in relation to the Tender Process.

## **4.29 Bids binding**

The Proponent acknowledges and agrees that:

- a. subject to [Section 4.23](#), each Financial Value Bid (together with its Project 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. will remain open for acceptance for the duration of the period referred to in this [Section 4.29](#), notwithstanding that a Proponent is not appointed as a Successful Proponent;
- b. subject to [Section 4.23](#), 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 for the duration of the period referred to in this [Section 4.29](#); and
- c. it has had full access to and fully considered, and has satisfied itself of, all relevant legal, technical, accounting, commercial, financial and insurance advice and matters relevant to its decision to offer to enter into such documentation.

## **4.30 The Australian Government's and AEMO's right to impose additional requirements**

Without limiting [Section 4.28](#), the Proponent acknowledges and agrees, and must ensure that each of its Associates acknowledges and agrees, that the Australian Government or AEMO may impose additional obligations, including by:

- a. issuing Addenda to these Tender Guidelines;
- 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.

## **4.31 Further information**

These Tender Guidelines set out some but not all of the matters which, at the date of these Tender Guidelines, the Australian Government and AEMO consider as or anticipate as being relevant in assisting the Australian Government and AEMO in their selection of any Successful Proponent(s).

Depending on the market response to the Tender Process and information in Bids, additional matters may become relevant and require investigation by the Australian Government or AEMO. If necessary, the Australian Government or AEMO may seek further information from Proponents and the Proponent must provide that further information requested within five (5) Business Days after being requested to do so by the Australian Government or AEMO, or such longer period as is identified by the Australian Government or AEMO in the notice seeking that information.

## 4.32 Recommended Bids and Successful Proponents

Prior to the recommendation of Recommended Bids to the Australian Government, AEMO may finalise the necessary details of the Project Documents based on the Recommended Bids in preparation for the final contract award stage. To facilitate this, AEMO may require additional information and participation in meetings relating to the Tender Process from one or more Proponents or their Associates. This stage of the process may include finalising documentation with either the Australian Government or AEMO. When applicable, the Proponent and its Associates must use reasonable endeavours and provide all reasonable assistance to finalise the Project Documents.

The selection of a Recommended Bid or engagement by the Australian Government or AEMO in the finalisation of Project Documents as described above does not constitute an acceptance of the Bid submitted by the Successful Proponent and is without prejudice to the Australian Government's right to finalise (or not finalise) the Project Documents with the Proponent or to enter into (or to not enter into) the Project Documents with any other Proponent or any other person.

## 4.33 Material changes in circumstances

The Proponent must notify AEMO and the Australian Government promptly in writing:

- a. of any event of which it is aware which may affect or have an adverse impact on the capability, financial position or capacity of the Proponent or its Associates or the ability of the Proponent or its Associates to continue to participate in the Tender Process or comply with these Tender Guidelines;
- b. of any circumstances which may affect the completeness, accuracy, adequacy or currency of any of the information provided in, or in connection with, the Bid or the Proponent's (or any of its Associates') participation in the Tender Process; or
- c. if, after lodgement of its Bid, there is a direct or indirect 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 4.33](#), the Australian Government and AEMO reserves the right to assess the information provided in that notice and then (without limitation to any other discretion or action) to:

- d. terminate the further participation of that Proponent or Associate in the Tender Process; or
- e. invite the Proponent to amend its Bid accordingly.

The Australian Government and AEMO may, in their absolute discretion, provide reasons as to why they have chosen to take any of the above actions, but are in no way obligated to provide such reasons.

## 4.34 No obligation to enter into contracts

The Australian Government, which is the responsible entity for entering into any Project Document, is under no obligation to enter into pre-contractual negotiations or any Project Documents with any Proponent or any other person. Irrespective of whether the Australian Government selects a Successful Proponent, or AEMO makes a recommendation in respect of a Proponent, if the Australian Government decides not to enter into a contract in relation to a Project, the Australian Government may proceed to enter into contracts with Competing Proponents or pursuant to any alternative tender or other process. For the avoidance of any doubt, if the Australian Government decides not to

appoint or enter into a contract with one or more Successful Proponents, the Australian Government will be free to proceed via any alternative process.

A Proponent (including a Successful Proponent) may not rely on any purported acceptance by the Australian Government of any offer or any representation in respect of entering into Project Documents with the Proponent or any other person unless and until the Australian Government has formally entered into the Project Documents.

### **4.35 Debriefing and disclosure**

The Australian Government or AEMO, at its absolute discretion, may (but is under no obligation to) provide general debriefing information to unsuccessful Proponents. Any such debriefing will generally be on a collective basis and will discuss general strengths and weaknesses of Bids and will not reveal any information that could compromise the Tender Process or any future tender process (including any participants therein). Neither the Australian Government nor AEMO are under any obligation to give reasons for the non-acceptance of a Proponent's Bid.

Neither the Australian Government nor AEMO is under any obligation to disclose to any Proponent or any of its Associates, any discussions or negotiations the Australian Government or AEMO has had with any Competing Proponents, their Consortium Members, its or their respective Related Bodies Corporate, or the officers, employees or contractors of any of those entities, or any amendments, additions or other changes the Australian Government or AEMO have allowed any Competing Proponent to make to its Bid, and is not obliged to enter into similar discussions or negotiations with the Proponent or its Associates or to allow or require amendments, additions or changes to be made to its Bid.

### **4.36 Complaints**

- a. Any complaints arising out of or in connection with these Tender Guidelines or the Tender Process must be lodged promptly through the Online Portal upon the cause of the complaint arising or becoming known. The complaint must set out:
  - i. the basis for the complaint (specifying the issues involved);
  - ii. how the subject of the complaint (and the specific issues) affect the person or organisation making the complaint;
  - iii. any relevant background information; and
  - iv. the proposed resolution of the complaint.
- b. The Australian Government or AEMO will seek to address the complaint as soon as possible and may, in their absolute discretion, apply the following procedures to address any complaint:
  - i. the complaint may be reviewed by an officer or person nominated by the Australian Government or AEMO, with a view to finding a solution to appropriately resolve the complaint;
  - ii. the complaint may be referred to the Probity Advisor; and
  - iii. the Australian Government or AEMO may contact the person lodging the complaint with a view to resolving the complaint in the accordance with the solution it proposes.

## 4.37 Right to issue Addenda

The Proponent agrees, and must ensure that each of its Associates agrees, that:

- a. at any time during the Tender Process, the Australian Government or AEMO may, in its absolute discretion, amend these Tender Guidelines, the Tender Process, any Project Documents and any document associated with the Tender Process, by issuing an Addendum;
- b. neither the Australian Government nor AEMO will have any Liability to the Proponent or any of its Associates as a consequence of the exercise of, or failure to exercise, its right to issue any such Addendum; and
- c. the Proponent will ensure that it prepares its Bid to take into account and reflect the content of any such Addendum.

## 4.38 Severability

If any provision of the Tender Guidelines is held to be invalid, unenforceable or illegal for any reason, the Tender Guidelines will remain otherwise in full force and effect apart from such provision which will be deemed deleted only to the extent required to remedy such invalidity, unenforceability or illegality. In such a case, the Australian Government or AEMO may, at its absolute discretion, amend these Tender Guidelines in accordance with [Section 4.37](#).

## 4.39 Communications

Communications from the Proponent (including any Associate) to the Australian Government and AEMO regarding the Tender Process will be managed (as applicable) through the Online Portal and subject to these Tender Guidelines and probity requirements. Communications or notifications to the Australian Government and AEMO regarding the Tender Process must be made (as applicable) through the Q&A Process, the conflict of interests form made available to registered Proponents on the Online Portal, or other means as notified by the Australian Government or AEMO from time to time during a Tender Process. Each means of communication will be made available to registered Proponents only through the Online Portal (unless otherwise notified by the Australian Government or AEMO during a Tender Process). For the avoidance of doubt, the submission of a Bid in accordance with these Tender Guidelines does not constitute a communication to the Australian Government or AEMO for the purposes of this [Section 4.39](#).

The Proponent acknowledges and agrees that it will not, and that it will ensure that each of its Associates does not, make contact with the Australian Government or AEMO to make enquiries of, discuss or make any disclosures in respect of any aspect of the Project or the Tender Process, otherwise than in accordance with these Tender Guidelines.

## 4.40 Process Agent

Each Consortium Member that does not have its registered office in Australia irrevocably:

- a. nominates the Proponent as its agent to receive service of process or other documents in any action in connection with the Tender Process; and
- b. agrees that service on that agent will be sufficient service on it.

## **4.41 Governing Law**

These Tender Guidelines and the Tender Process are governed by the Laws applying in the Australian Capital Territory, Australia. By participating in the Tender Process, the Proponent, and each of its Consortium Members, will be taken to have accepted the application of those Laws and to have submitted to the jurisdiction of the courts of the Australian Capital Territory. The 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 Process.

# 5 Australian Government Policies and Other Requirements

Proponents are required to comply with the Australian Government policies and other requirements as set out in this [Section 5](#) and in the draft CISA. Please note that some of the Australian Government policies and requirements identified below have been modified to suit the subject matter of the Tender Process. The representations, warranties and information referred to below and in the draft CISA must be provided by the Proponent as and when requested to do so as part of the Tender Process.

## 5.1 Shadow Economy Policy

- a. Proponents are referred to the Shadow Economy Procurement Connected Policy issued by the Australian Government and section 1 of Schedule 6 of the draft CISA.
- b. Any Successful Proponent will be required to provide all Valid and Satisfactory Statements of Tax Record referred to in that policy for the Bid Entity and any other person identified in the Shadow Economy Procurement Connected Policy, as required by the CISA.

## 5.2 Workplace Gender Equality

- a. Proponents are referred to the *Workplace Gender Equality Act 2012 (Cth)* (**WGE Act**), administered by the Workplace Gender Equality Agency (**WGEA**) and section 2 of Schedule 6 of the draft CISA.
- b. Proponents will be required as part of the Tender Process to represent and warrant whether or not the Proponent, the Bid Entity (if different to the Proponent), or any of its or their Related Bodies Corporate, is a 'Relevant Employer' within the meaning of WGE Act and if so, to undertake to provide to the Australian Government, if they are a Successful Proponent, a current letter of compliance with the WGE Act issued by the WGEA in respect of each such Relevant Employer prior to entry into the CISA.

## 5.3 Employee Entitlements

Proponents will be required as part of the Tender Process to represent and warrant whether or not the Proponent, or any Bid Entity (if different to the Proponent), or any of its or their Related Bodies Corporate, has any judicial decision against it (including overseas jurisdictions but excluding judgments under appeal or instances where the period for appeal or payment/settlement has not expired) relating to unpaid employee entitlements where the entitlements remain unpaid.

## 5.4 Significant Event

- a. Proponents are referred to section 5 of Schedule 6 of the draft CISA under which they will be required to notify of Significant Events.
- b. Proponents will be required as part of the Tender Process to represent and warrant whether or not there has been any Significant Event in respect of the Proponent, or any Bid Entity (if different to the Proponent) and, if so, to provide details.

## 5.5 Prohibited Dealings

- a. Proponents are referred to section 10 in Schedule 6 of the draft CISA.
- b. Proponents must not be, and will be required as part of the Tender Process to warrant that they and any Associate are not, a Prohibited Entity. If the Proponent or any Associate is a Prohibited Entity, they will not be permitted to participate in the Tender Process.

## 5.6 Modern Slavery

- a. Proponents are referred to the *Modern Slavery Act 2018* (Cth) (**MS Act**) and section 3 in Schedule 6 of the draft CISA.
- b. Proponents will be required as part of the Tender Process to represent and warrant whether or not it, or the Bid Entity (if different to the Proponent), or any of its or their Related Bodies Corporate, is a 'Reporting Entity' within the meaning of MS Act and, if so, that any such Reporting Entities have complied with their obligations under the MS Act.

## 6 Glossary

In these Tender Guidelines, the following capitalised terms have the meanings set out below.

Term	Definition
<b>Addendum</b>	Any document issued by or on behalf of AEMO or the Australian Government after the date of these Tender Guidelines and labelled as an “Addendum” to these Tender Guidelines; collectively known as “Addenda”.
<b>AEDT</b>	Australian Eastern Daylight Time.
<b>AEMO</b>	Either or both of AEMO Limited and AEMO Services.
<b>AEMO Limited</b>	Australian Energy Market Operator Limited (ABN 94 072 010 327).
<b>AEMO Services</b>	AEMO Services Limited (ABN 59 651 198 364).
<b>AEST</b>	Australian Eastern Standard Time.
<b>Alternative Financial Value Bid</b>	<p>A document that may be submitted by a Proponent following a Project Bid and with or following a Default Financial Value Bid, comprised of:</p> <ul style="list-style-type: none"> <li>(a) the mandatory part of a Default Financial Value Bid with the only changes being to the permitted Bid Variables, as described in <a href="#">Section 2.3</a> of these Tender Guidelines;</li> <li>(b) any Returnable Schedules provided with the Alternative Financial Value Bid; and</li> <li>(c) any additional information submitted by the Proponent in respect of the Alternative Financial Value Bid.</li> </ul> <p>The Default and Alternative Financial Value Bids must be identical other than amendments to the Bid Variables outlined in <a href="#">Section 2.3</a> of these Tender Guidelines.</p>
<b>Annual Ceiling</b>	Has the meaning given to that term in the draft CISA.
<b>Annual Floor</b>	Has the meaning given to that term in the draft CISA.
<b>Annual Payment Cap</b>	Has the meaning given to that term in the draft CISA.
<b>Approval</b>	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 Successful Proponent of its obligations under these Tender Guidelines and/or the Project Documents.
<b>Arms’ Length Associates</b>	<p>In respect of an entity:</p> <ul style="list-style-type: none"> <li>(a) means its agents, external contractors, consultants, nominees, licensees or advisers who are involved in assisting or advising the entity in relation to the Tender Process or the CIS; and</li> <li>(b) if the entity is the Proponent, the Bid Entity or a Consortium Member, also includes a Debt or Equity Provider that is offering to provide funding in relation to the Bid, and any of its Close Associates,</li> </ul> <p>but excludes the Australian Government, AEMO and their Close Associates, to the extent that they could be considered to be included in the above part of this definition.</p>
<b>Associated Project</b>	<p>In respect of a Hybrid Project, means the ‘Associated Project’ as defined in the draft CISA, being the generation assets co-located with the Project which either:</p> <ul style="list-style-type: none"> <li>(a) share a common AEMO registration;</li> <li>(b) share a common connection point; or</li> <li>(c) have a direct connection that allows for the storage asset to be charged directly from the generation asset.</li> </ul>
<b>Associates</b>	<p>In the case of a Proponent, means:</p> <ul style="list-style-type: none"> <li>(a) any Related Body Corporate of the Proponent;</li> <li>(b) any Consortium Members (including any Bid Entity) and their Related Bodies Corporate (if any);</li> </ul>



Term	Definition
	<p>(c) any Close Associates of the entities referred to in paragraphs (a) and (b); and  (d) where specifically indicated, any Arms' Length Associates,  but does not include the Associates of the Australian Government or AEMO.</p> <p>In the case of the Australian Government, means:</p> <p>(a) AEMO; and  (b) any Close Associates of the Australian Government and AEMO,  but does not include the Proponent or its Associates.</p> <p>In the case of AEMO, means:</p> <p>(a) the Australian Government; and  (b) any Close Associates of the Australian Government and AEMO,  but does not include the Proponent or its Associates.</p>
<b>Australian Government</b>	The Commonwealth of Australia as represented by the Department of Climate Change, Energy, the Environment and Water or such other Commonwealth agency as is from time to time responsible for the Tender Process or is otherwise relevant in the particular context.
<b>Authority</b>	Any government department, local government authority, government or statutory authority, body, instrumentality, minister, agency or other authority exercising administrative or regulatory functions.
<b>Bid</b>	The documentation submitted by a Proponent in relation to the Project in response to Stage A – Project Bid or Stage B – Financial Value Bid of the Tender Process (including the Default Financial Value Bid and any Alternative Financial Value Bid), including, Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Bid Entity</b>	The legal entity which is to be the counterparty to any Project Documents which the Australian Government may offer to the Proponent, as proposed in accordance with EC 7. This entity may be the same as the Proponent if it is the entity that has registered to participate in the Tender Process and no separate legal entity is submitted in accordance with EC 7.
<b>Bid Variable</b>	The commercial terms of the Project Documents that may be altered by the Proponent in either the Default Financial Value Bid or any Alternative Financial Value Bid.
<b>Business Day</b>	A day other than a Saturday, a Sunday and any other day not taken to be a public holiday in the State/Territory in which a Project is located.
<b>CIS</b>	Capacity Investment Scheme.
<b>CISA or Dispatchable CISA</b>	A Capacity Investment Scheme Agreement, which is an up to 15-year revenue support contract which may be entered into by the Australian Government (in its absolute discretion) with a Successful Proponent and which will be in the form provided on AEMO's website as part of the Tender Process or such other form as the Australian Government approves.
<b>Claim</b>	<p>Any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity) made:</p> <ul style="list-style-type: none"> <li>• in connection with the Tender Process, these Tender Guidelines, the Project Documents or the Project;</li> <li>• at law or in equity; and</li> <li>• for specific performance, restitution, payment of money (including damages), an extension of time or any other form of relief.</li> </ul>
<b>Close Associate</b>	<p>In respect of an entity, means:</p> <p>(a) its officers and employees; and  (b) any contractors who are working like employees of the entity.</p>
<b>Closing Date and Time</b>	The Registration Closing Date and Time, the Project Bid Closing Date and Time and the Financial Value Bid Closing Date and Time or the relevant one of them, as the case may be.
<b>COD Target Date</b>	Has the meaning given to that term in the draft CISA.

Term	Definition
<b>Competing Proponent</b>	In respect of a Proponent, any person responding to these Tender Guidelines or participating in the Tender Process other than that Proponent, and that Proponent's Associates.
<b>Congestion</b>	When a particular element on the network (e.g. a line or transformer) reaches its limit and cannot carry any more electricity than it is carrying already.
<b>Connection Point</b>	Has the meaning given to that term in the draft CISA.
<b>Consolidated List</b>	The list available at <a href="#">Consolidated List   Australian Government Department of Foreign Affairs and Trade</a> (dfat.gov.au), relating to persons and entities that are subject to sanctions under Australian sanction Laws including the Charter of the United Nations Act 1945 (Cth) and the Autonomous Sanctions Act 2011 (Cth).
<b>Consortium Member</b>	<p>Each of the following entities in their individual capacity:</p> <ul style="list-style-type: none"> <li>• sponsor(s) of the Proponent and/or Bid Entity;</li> <li>• any SPV or Bid Entity that is intended to enter into the Project Documents, subject to the Australian Government's approval; and</li> <li>• any additional entity included in the Proponent subject to the Australian Government's approval.</li> </ul> <p>When referring to a Competing Proponent, 'Consortium Member' means any of the above persons in respect of that Competing Proponent.</p>
<b>CWO REZ</b>	Central West Orana REZ.
<b>DCCEEW</b>	Department of Climate Change, Energy, the Environment and Water.
<b>Debt or Equity Provider</b>	Any actual or potential provider of debt or equity funding, facilities or accommodation directly or indirectly to the Proponent or its Related Bodies Corporate in relation to the Project, including any security trustee, bond trustee, agent, underwriter, arranger, financial guarantor, bond provider or hedge counterparty, however described.
<b>Default Financial Value Bid</b>	The document submitted by a Proponent following a Project Bid, being the mandatory part of a Financial Value Bid, as further described in <a href="#">Section 2.3</a> of these Tender Guidelines including any Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Disclosed Information</b>	<p>The following information (of whatever nature, including written, graphical, electronic, oral or in any other form) which is disclosed or made available to, or otherwise accessed or obtained by or on behalf of, the Proponent or its Associates in connection with the Tender Process:</p> <ul style="list-style-type: none"> <li>• these Tender Guidelines and any information disclosed pursuant to these Tender Guidelines (and other documents released as part of the Tender Process) as part of the Tender Process;</li> <li>• any oral or written advice, representations or information given or made available by or on behalf of the Australian Government or any of its Associates during the Tender Process;</li> <li>• all material contained in any data room used by the Australian Government, AEMO and the Proponents or communicated to Proponents through the Online Portal;</li> <li>• each Bid to the extent that it contains or would reveal any of the information referred to in the paragraphs above; and</li> <li>• any other information that the Proponent or any of its Associates know or ought reasonably to know is confidential to the Australian Government, AEMO or any of their Associates or should otherwise be treated as confidential information.</li> </ul>
<b>Duplicative Bid</b>	A Bid will be considered a Duplicative Bid if it is in respect of essentially the same Project as another Bid from the same Proponent or its Associates, and only has changes to the configuration or design (such as storage duration or nameplate capacity). A Hybrid Project participating in this Tender Process may only bid for a Dispatchable CISA. The Proponent must not submit a Duplicative Bid.
<b>Eligibility Criteria or EC</b>	The Proponent Eligibility Criteria and the Project Eligibility Criteria.
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).

Term	Definition
<b>Final Support End Date</b>	The end of the Support Period, as defined in the draft CISA.
<b>Financial Value Bid</b>	The document submitted by a Proponent in relation to a Project, as described in <a href="#">Section 2.3</a> comprising one or both, depending on the context, of: <ul style="list-style-type: none"> <li>(a) a Default Financial Value Bid; and</li> <li>(b) an Alternative Financial Value Bid,</li> </ul> including any Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Financial Value Bid Closing Date and Time</b>	The last date for submission of Financial Value Bids, as advised by a notice on the Online Portal.
<b>Financial Value Bid Opening Date</b>	The date from when the Project Shortlist are invited to submit Financial Value Bids, as advised by a notice on the Online Portal.
<b>Financial Value Shortlist</b>	A shortlist of Financial Value Bids selected during Stage B as potential Recommended Bids.
<b>First Nations</b>	Refers to the Aboriginal and Torres Strait Islander peoples who are the original inhabitants of Australia, and their communities, cultures and customs.
<b>First Nations Commitments</b>	Binding commitments in relation to First Nations economic and social outcomes that are offered by the Proponent for inclusion in the CISA in relation to the proposed Project, pursuant to MC 8.
<b>First Nations communities</b>	Traditional Owners and First Nations communities.
<b>Generation CISA</b>	A Capacity Investment Scheme Agreement entered into as a result of the Tender 1 Process or Tender 4 Process.
<b>GPS</b>	Generator Performance Standards.
<b>GST</b>	Goods and Services Tax.
<b>GW</b>	Gigawatt.
<b>GWh</b>	Gigawatt hours.
<b>Hybrid Project</b>	Has the meaning given to that term in the draft CISA, being a co-located dispatchable and generation project including the Project, the Associated Project and the Shared Infrastructure.
<b>Intellectual Property Rights or IP Rights</b>	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: <ul style="list-style-type: none"> <li>• copyright;</li> <li>• trade and service marks (whether registered or unregistered);</li> <li>• designs (whether registered or unregistered);</li> <li>• patents and inventions (whether or not patented or patentable);</li> <li>• internet domain names; and</li> <li>• trade, business or company names,</li> </ul> in each case whether tangible or intangible, which incorporates, embodies or is based on any of the things referred to in the paragraphs above.
<b>Late Bids</b>	Has the meaning set out in <a href="#">Section 2.1.2</a> .
<b>Law or Laws</b>	Any Commonwealth, State/Territory or local government 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 Instruments.
<b>Liability</b>	Any loss, cost, liability or expense whether: <ul style="list-style-type: none"> <li>• arising from or in connection with any proceeding or Claim or not;</li> <li>• liquidated or not;</li> <li>• legal or equitable;</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>present, prospective or contingent; or</li> <li>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.</li> </ul>
<b>Local Content</b>	Goods, services, and resources produced, manufactured, or supplied within Australia and New Zealand.
<b>Location</b>	The region of the NEM in relation to which the Project is registered or intended to be registered as contemplated in EC 7, and <b>Located</b> has a corresponding meaning.
<b>LTESA</b>	Long-Term Energy Service Agreement.
<b>Maximum Capacity</b>	The capacity that a Project intends to register with AEMO as its maximum for dispatch into the NEM and which is identified by the Proponent as a Bid Variable.
<b>Merit Criteria or MC</b>	The merit criteria against which Bids are assessed, set out in <a href="#">Section 3.2</a> .
<b>Minister</b>	The Minister for Climate Change and Energy of the Commonwealth of Australia and any successor Minister with responsibility for the Capacity Investment Scheme or other Minister within the portfolio, along with their delegates.
<b>MS Act</b>	<i>Modern Slavery Act 2018</i> (Cth).
<b>MW</b>	Megawatt.
<b>MWh</b>	Megawatt hour.
<b>NEL</b>	The National Electricity Law set out in the schedule to the <i>National Electricity (South Australia) Act 1996</i> (SA) as it applies in the jurisdiction where the Project is Located.
<b>NEM</b>	The National Electricity Market.
<b>NER</b>	The National Electricity Rules made under the NEL, as it applies in the jurisdiction where the Project is Located.
<b>Online Portal</b>	SmartyGrants, an online administration system made available by or on behalf of the Australian Government to Proponents as part of participation in the Tender Process and into which Proponents may upload their Bids, from which they may obtain information regarding the Tender Process, and through which they may correspond with the Tender Process administration team. The Online Portal is located <a href="#">here</a> .
<b>Participating Jurisdiction</b>	A jurisdiction that is a participating jurisdiction within the meaning of section 5 of the <i>National Electricity (South Australia) Act 1996</i> (SA).
<b>Permitted Purpose</b>	In relation to a Proponent, the sole purposes of considering the opportunity set out in this Tender 3 Process and preparing and submitting a Bid.
<b>Policy Objectives</b>	<p>The key objectives of this Tender 3 Process include:</p> <ol style="list-style-type: none"> <li>supporting projects that can support system reliability,</li> <li>support the deployment of 9 GW of clean dispatchable capacity (four-hour equivalent) by 2030 to help deliver the Australian Government’s 82% renewables target; and</li> <li>putting downward pressure on electricity prices in Australia’s rapidly changing energy market.</li> </ol>
<b>Probity Advisor</b>	The independent probity advisor appointed by AEMO or the Australian Government, or such replacement probity advisor as is notified by AEMO or the Australian Government from time to time.

Term	Definition
<b>Prohibited Entity</b>	<p>A person or entity who or which is:</p> <ul style="list-style-type: none"> <li>• directly or indirectly engaged in preparing, planning, assisting or fostering a terrorist act;</li> <li>• a listed terrorist organisation for the purposes of the <i>Criminal Code Act 1995</i> (Cth) (details of listed terrorist organisations are available at <a href="https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations">https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations</a>);</li> <li>• subject to sanctions or similar measures under <i>the Charter of the United Nations Act 1945</i> (Cth) or the <i>Autonomous Sanctions Act 2011</i> (Cth) (details of individuals and entities are available at: <a href="https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx">https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx</a>);</li> <li>• listed on the 'World Bank's Listing of Ineligible Firms and Individuals' posted at: <a href="https://www.worldbank.org/en/projects-operations/procurement/debarred-firms">https://www.worldbank.org/en/projects-operations/procurement/debarred-firms</a>;</li> <li>• owned, controlled by, acting on behalf of, or at the direction of individuals, persons, entities or organisations referred to in bullet points 1 to 4 above; or</li> <li>• providing direct or indirect support, resources or assets (including any grant monies) to individuals, persons, entities or organisations referred to in owned, controlled by, acting on behalf of, or at the direction of individuals, persons, entities or organisations referred to in bullet points 1 to 4 above.</li> </ul>
<b>Project</b>	A physical dispatchable electricity facility that is built, or intended to be built, in connection with which a Dispatchable CISA is sought in this Tender 3 Process, including any Shared Infrastructure.
<b>Project Bid</b>	A document submitted by a Proponent in relation to a Project on or before the Project Bid Closing Date and Time including any Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Project Bid Closing Date and Time</b>	The last date for submission of Project Bids which, as at the date of these Tender Guidelines is 18 December 2024 at 5pm AEDT. This date and time may be adjusted by the Australian Government or AEMO issuing a notice on the Online Portal.
<b>Project Bid Commencement Date</b>	The date from when registered Proponents will receive access to the application information needed to complete their Project Bids via the Online Portal, being 13 November 2024 for this Tender 3 Process.
<b>Project Documents</b>	<p>The CISA, together with any other documents that are required or contemplated under the CISA or into which the Australian Government requires a Successful Proponent to enter at or around the same time as the CISA, with regard to the relevant Bid and specific Project arrangements (drafts of which are included on AEMO's website).</p> <p>The full suite of Project Documents will be determined on a case-by-case basis by the Australian Government having regard to the relevant Bid and specific Project arrangements.</p>
<b>Project Eligibility Criteria</b>	The Project Eligibility Criteria identified in <a href="#">Section 3.1</a> .
<b>Project Shortlist</b>	A shortlist of Proponents and their Project Bids that is created from those recommended by AEMO to progress to Stage B – Financial Value Bid.
<b>Proponent</b>	An entity that registers to participate in the Tender Process, including those entities that submit, or intend to submit, a Project Bid or any Financial Value Bid and also including any shortlisted Proponent and Successful Proponent.
<b>Proponent Eligibility Criteria</b>	The Proponent Eligibility Criteria identified in <a href="#">Section 3.1</a> .
<b>Recommended Bids</b>	Bids that may be recommended by AEMO to the Australian Government after the assessment and due diligence in relation to that Bid has been completed.

Term	Definition
<b>Registration Closing Date and Time</b>	The date on which prospective Proponents cease to be able to register on the Online Portal regarding the Tender Process which is one week prior to the Stage A – Project Bid Closing Date and Time. This date and time may be adjusted by the Australian Government or AEMO issuing a notice on the Online Portal.
<b>Registration Date</b>	The date on which prospective Proponents were able to commence registration on the Online Portal regarding the Tender Process, being 13 November 2024.
<b>Regulatory Instrument</b>	Means: (a) the NEL and the NER; (b) any other Law that regulates the electricity industry in the States and Territories (as applicable); and (c) 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.
<b>Related Body Corporate</b>	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.
<b>Relevant Employer</b>	Has the meaning given in the <i>Workplace Gender Equality Act 2012</i> (Cth).
<b>Reporting Entity</b>	Has the meaning given in the <i>Modern Slavery Act 2018</i> (Cth).
<b>RETA</b>	The Australian Government’s Renewable Energy Transformation Agreements.
<b>Returnable Schedules</b>	The Returnable Schedules provided through the Online Portal for the relevant stage of the Tender Process and which are to be completed by or on behalf of the relevant Proponent as part of the submission of a Bid as referred to in these Tender Guidelines.
<b>Revenue Ceiling Sharing Percentage</b>	Has the meaning given to that term in the draft CISA.
<b>Revenue Floor Support Percentage</b>	Has the meaning given to that term in the draft CISA.
<b>REZ</b>	Renewable Energy Zone.
<b>Satisfactory</b>	In respect of an STR, means the STR meets: (a) the conditions set out in Part 6.b of the Shadow Economy Procurement Connected Policy; or (b) if the circumstances in Part 6.c of the Shadow Economy Procurement Connected Policy apply, the conditions set out in Part 8.b of the Shadow Economy Policy.
<b>Shadow Economy Procurement Connected Policy</b>	The ‘ <i>Shadow economy – increasing the integrity of government procurement: Procurement connected policy guidelines October 2024</i> ’ available at <a href="https://treasury.gov.au/publication/p2019-t369466">https://treasury.gov.au/publication/p2019-t369466</a> .
<b>Shared Infrastructure</b>	Has the meaning given to that term in the draft CISA, being plant, equipment and infrastructure that is located at the Hybrid Project site and used for both the Project and the Associated Project, including common balance of plant with the Associated Project.

Term	Definition
<b>Significant Event</b>	<p>Means:</p> <ul style="list-style-type: none"> <li>any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Proponent and Bid Entity (if different to the Proponent) or Associates that has an adverse impact or could be reasonably perceived to have an adverse impact on their professional capacity, capability, fitness or reputation;</li> <li>any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Proponent or Bid Entity (if different to the Proponent) or its Associates that may have an adverse impact on compliance with Commonwealth policy, applicable Laws or the Commonwealth's reputation;</li> <li>any unsettled judicial decisions against the Proponent or Bid Entity (if different to the Proponent) relating to unpaid employee entitlements; or</li> <li>any non-compliance by the Proponent or Bid Entity (if different to the Proponent) with any judgment against that person from any court or tribunal (including overseas jurisdictions but excluding judgments under appeal or instances where the period for appeal or payment/settlement has not expired) relating to a breach of applicable workplace Laws, including workplace relations Law, work health and safety Law or workers' compensation Law.</li> </ul>
<b>Social Licence Commitments</b>	Binding commitments made by the Proponent in relation to the proposed Project, as described in MC 9, with the purpose of improving local economic and social outcomes and regional economic development, including use and development of local supply chains and workforce, Local Content and community benefit sharing.
<b>Stage A</b>	The stage described in <a href="#">Section 2.2</a> .
<b>Stage A – Project Bid Merit Criteria</b>	Merit Criteria 1, 2, 3, 4 and 5.
<b>Stage B</b>	The stage described in <a href="#">Section 2.3</a> .
<b>Stage B – Financial Value Bid Merit Criteria</b>	Merit Criteria 6, 7, 8 and 9.
<b>Stage C</b>	The stage described in <a href="#">Section 2.4</a> .
<b>Staged Project</b>	A co-located existing dispatchable asset and new dispatchable asset, which includes the Project (being the new dispatchable asset), the existing dispatchable asset and the shared infrastructure.
<b>Statement of Tax Record or STR</b>	A statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out <a href="#">here</a> .
<b>Subcontract</b>	Has the meaning given to that term in the draft CISA.
<b>Subcontractor</b>	Has the meaning given to that term in the draft CISA.
<b>Successful Proponent</b>	A Proponent whose Project is selected by the Australian Government to (subject to completion of any required negotiations) enter into Project Documents in accordance with <a href="#">Section 2.5</a> .
<b>Support Start Date</b>	Has the meaning given to that term in the draft CISA.
<b>SW REZ</b>	South West Renewable Energy Zone.
<b>Tender 3, Tender Process or Tender 3 Process</b>	The process specified in these Tender Guidelines, commencing on Registration Date and ending 6 months after Stage B closing date (inclusive).

Term	Definition
<b>Tender 4 Process</b>	The Capacity Investment Scheme Tender 4: National Electricity Market – Generation tender process.
<b>Tender Conditions</b>	The terms and conditions set out in <a href="#">Section 4</a> of these Tender Guidelines and such further terms and conditions that are otherwise imposed by the Australian Government or AEMO in respect of the Tender Process.
<b>Tender Documentation</b>	The documentation issued by or on behalf of the Australian Government regarding the Tender Process, including these Tender Guidelines, any Tender Process briefing materials, the Process Deed Poll and any Addenda, but does not include any final Project Document or any other contract document issued in connection with the documents listed in this definition.
<b>Tender Guidelines</b>	This document, including its schedules, attachments, appendices and any Addenda and the Tender Conditions.
<b>Tender Round 5</b>	The NSW Electricity Infrastructure Tender Round 5 process for South West Renewable Energy Zone access rights.
<b>Valid</b>	In respect of an STR, means valid in accordance with Part 7.e of the Shadow Economy Procurement Connected Policy.
<b>Validity Period</b>	The period of six calendar months, commencing from the Financial Value Bid Closing Date and Time, or such other period of time as may be notified by the Australian Government and agreed to by the Proponent (acting reasonably).
<b>WGE Act</b>	The <i>Workplace Gender Equality Act 2012</i> (Cth).
<b>WGEA</b>	The Workplace Gender Equality Agency.