



NSW Electricity Infrastructure Tenders

Guidelines – Tender Round 5

May 2024



ACKNOWLEDGEMENT TO COUNTRY

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

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



IMPORTANT NOTICE

ACKNOWLEDGEMENT

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

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

DISCLAIMER

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

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

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

This document provides a summary of the relevant parts of the EII Act, EII Regulation and associated regulations and policies as at 21 May 2024. Legislation and regulations may be subject to change.

The Tender Round is conducted in accordance with the EII Act, the EII Regulation and any other relevant associated regulations and Regulatory Instruments made from time to time. Further regulations and Regulatory Instruments (not yet made) may apply to a Tender Round including after it commences and these regulations and Regulatory Instruments may be required to apply to the Tender Round. Proponents are expected to comply with these instruments throughout the Tender Round, including where amendments to them take effect during the Tender Round. In this Tender Round new regulations could include, for example, changes to the NEL and NER. Any new regulations relevant to participation in the Tender Round will be notified by the Consumer Trustee through the Consumer Trustee's website.

This document may include generalisations and assumptions about future policy outcomes. This document or the information in it may be subsequently amended, withdrawn, reissued, or supplemented at any time. This document does not constitute legal or business advice and should not be relied on as a substitute for obtaining detailed advice about the EII Act, EII Regulation, the NEL, the NER, or any other applicable Laws, regulations, Regulatory Instruments, regulatory documents, reports, procedures, or policies.

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

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

- ii. the exercise of any discretion, or the making of any decision, by AEMO Services or its Associates in relation to the Tender Round, including in the assessment of any Bid by a Proponent and its Consortium Members and their respective Associates unless such liability results from the AEMO Services' fraud or willful misconduct.

CONFIDENTIALITY

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

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

ROLE OF THE ENERGY CORPORATION OF NSW (EnergyCo)

In relation to recommendations to grant Access Rights and setting Access Fees in a Tender Round, EnergyCo has the following roles and functions in relation to the Tender Round.

Under the EII Act and EII Regulation,¹ EnergyCo, as the Infrastructure Planner for the SW REZ is responsible for granting SW REZ Access Rights. To support EnergyCo undertaking this function, AEMO Services, as the Consumer Trustee, conducts competitive tenders that enable Proponents to bid for Access Rights. As this Tender Round includes SW REZ Access Rights, EnergyCo will provide AEMO Services with the specific information to enable AEMO Services to offer and evaluate a bid for SW REZ Access Rights.

AEMO Services, as the Consumer Trustee, is responsible for determining the Access Fees payable to the SFV for the SW REZ Access Rights.² EnergyCo will provide AEMO Services with input in relation to the Access Fees, to assist the Consumer Trustee to determine Access Fees.

Where AEMO Services is evaluating Bids for Access Rights, EnergyCo provides advice to AEMO Services for this purpose, including technical input as the subject matter expert and having regard to its function as the Infrastructure Planner³ and the limits set under the relevant REZ Access Scheme Declaration, on:

- Access Rights Projects connecting to an Access Rights Network;
- the Portfolio Assessment of Access Rights Projects, including with regard to the Infrastructure Planner's role in the Access Scheme Declaration; and
- matters related to social license commitments that will apply to Proponents located within the REZ geographical boundary.

ROLE OF OTHER ENTITIES

In accordance with section 60(3) of the EII Act, the Consumer Trustee is to act independently and in the long-term financial interests of NSW electricity customers. In conducting activities in connection with this document and in the exercise of its statutory functions under the EII Act, AEMO Services may consult with and share Proponent information with Assisting Entities and other relevant entities with regulated roles in the National Electricity Market, subject to the requirements of the EII Act. Further information for Proponents regarding the sharing of Proponent information, the role of EnergyCo and other relevant entities is set out in [Section 3](#), [Section 5](#) and [Section 6](#) of this document.

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¹ Section 63(4)(d) of the EII Act, clause 42C(2) and Schedule 1A of the EII Regulation.

² Section 26(1) of the EII Act.

³ Clauses 42C(1)-(3) of the EII Regulation.

Tender Round 5 details





A. Welcome to Tender Round 5

Welcome to Tender Round 5. The Products available in this Tender Round are long-duration storage (LDS) LTESAs and South-West Renewable Energy Zone (SW REZ) Access Rights.

This tender is designed to support the delivery of high-quality electricity infrastructure that is in the long-term financial interests of NSW electricity customers. For SW REZ Access Rights, this includes generation, storage, and hybrid projects, where the generation is sourced from renewable energy.

The Consumer Trustee uses its published IIO Reports as a basis for conducting tenders.⁴ The most recent IIO Report was published in December 2023, and can be found [here](#).

Products available in this Tender Round

This Tender Round allows Proponents to bid for:

Product	Item	Indicative tender size
LTESA	LDS LTESA	1 GW
Access Right	SW REZ Access Right	Up to 3.98 GW

The Consumer Trustee may exercise discretion to recommend a greater or lesser volume of LTESAs than the indicative tender size, where it is consistent with applicable requirements in the EII Act.

The Consumer Trustee will recommend Bids for Projects to be awarded SW REZ Access Rights to EnergyCo, as the Infrastructure Planner, based on the outcome of the assessment process and where it is consistent with the applicable requirements in the EII Act (including the EII Regulation and the SW REZ Access Scheme).⁵ If the Initial Allocation of SW REZ Access Rights is not exhausted, the remaining SW REZ Access Rights are expected to be made available in subsequent tender rounds, subject to requirements in the EII Act (including the EII Regulation and the SW REZ AccessScheme Declaration).

Proponents seeking both an LDS LTESA and a SW REZ Access Right are required to bid for both Products in this Tender Round. Proponents that are successful in obtaining a SW REZ Access Right may seek a generation or LDS LTESA in a later Tender Round, where the Consumer Trustee is satisfied that there are exceptional circumstances (see [\(Section 3.1.6\)](#)).⁶

⁴ Section 45(6) of the EII Act.

⁵ Section 60(4) of the EII Act and clause 42A(2)(d) of the EII Regulation.

⁶ See clauses 28(1)(b), (2), (3) of the EII Regulation.

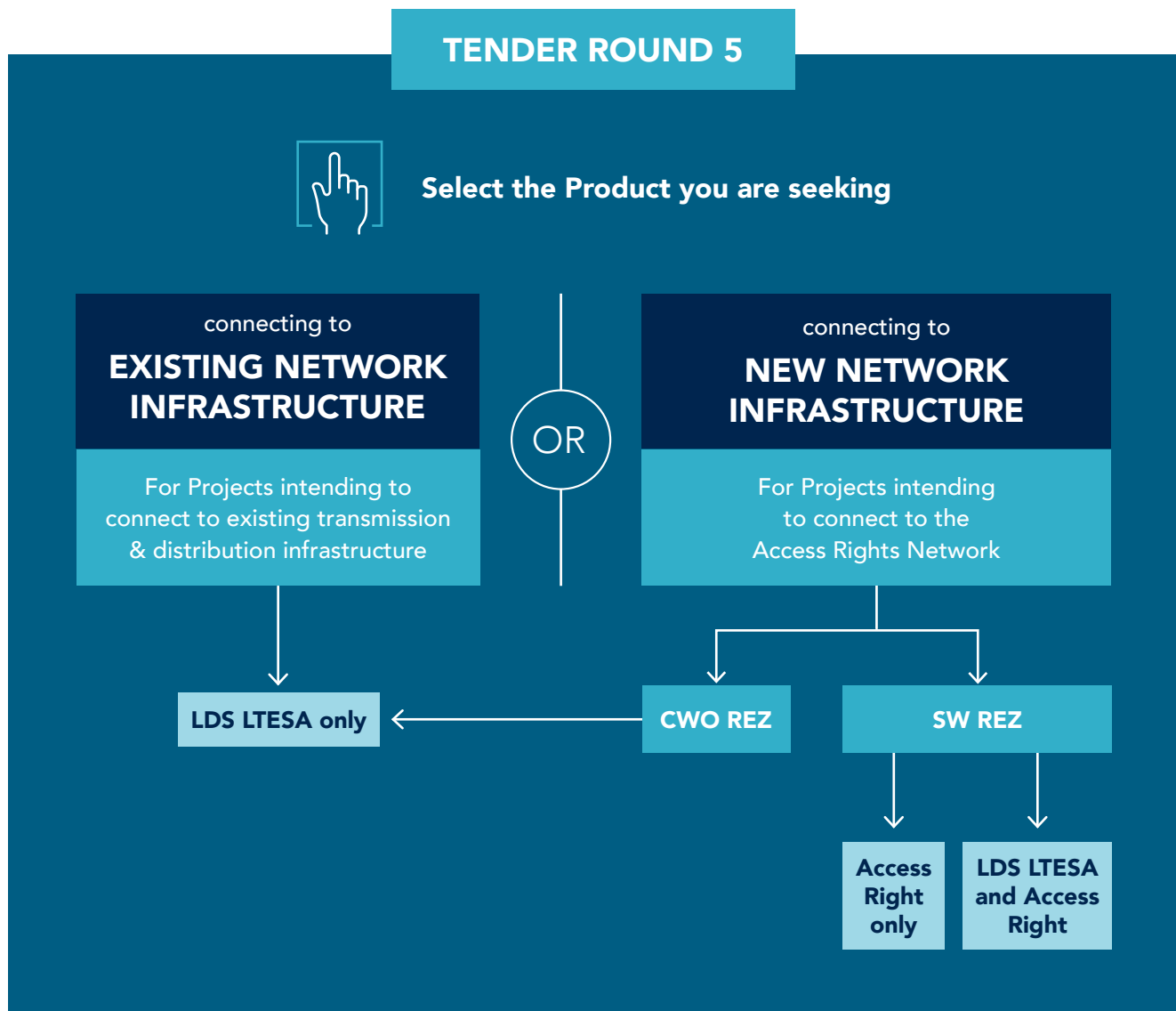
Access Rights as part of a Bid in this Tender Round

The Consumer Trustee will publish an Access Rights Supplement alongside the Tender Guidelines for each REZ where:

- Access Rights are available; and
- AEMO Services has been allocated a role to evaluate and recommend Bids for Access Rights to EnergyCo.⁷

The Access Rights Supplement will form part of these Tender Guidelines, and its publication by the Consumer Trustee triggers the right for a Proponent to bid for an Access Right in accordance with the Tender Guidelines and the Access Rights Supplement. An Access Rights Supplement may be amended or withdrawn at the discretion of the Consumer Trustee.

The Access Rights Supplement will provide relevant information for Proponents to assist them in submitting a Bid for Access Rights, and [Section 2.1](#) of this document provides a short summary of key information.



⁷ Clause 42A(1)(b) of the EII Regulation.



B. Important dates*

	Step	Date
	<i>Tender rules published</i>	10 May 2024
	<i>Tender Commencement Date Registration and Project Bids open and documents published</i>	22 May 2024
	<i>Registration Closing Date and Time</i>	7 June 2024 11.59pm
	<i>Project Bid Closing Date and Time</i>	27 June 2024 5:00pm
	<i>Invite to submit Financial Value Bid</i>	Late August 2024*
	<i>Financial Value Bid Closing Date</i>	Late September 2024*
	<i>Notify unsuccessful Proponents</i>	December 2024*
	<i>Announce Selected Bids</i>	December 2024/ January 2025*

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



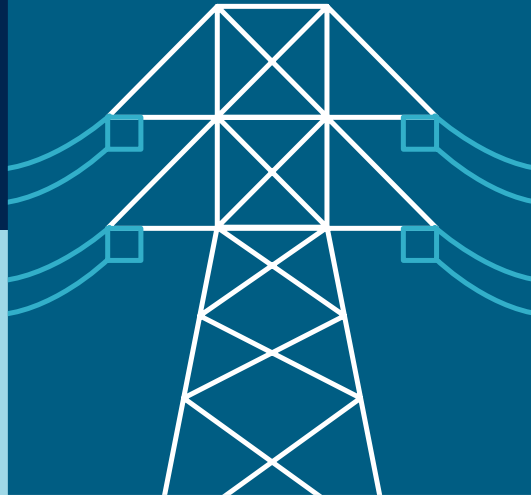
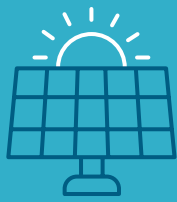
C.How to use this guide: where to start

Tender step	Proponent requirements (including hyperlinks)	Assessment stage
<u>Tender Commencement Date</u>	<p>Register to participate in the Tender Round</p> <p>Proponent Eligibility Criteria Criteria to ensure that Proponents possess the requisite technical, financial, legal, and commercial capabilities to be able to deliver the Project.</p>	-
<u>Project Bid</u>	<p>Provide executed Tender Process Deed</p> <p>Project Eligibility Criteria Criteria to ensure that only eligible Projects progress to assessment against the Merit Criteria.</p> <p>Project Merit Criteria</p> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 1 – Impact on electricity system </div> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 2 – Pathway to commercial operation </div> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 3 – Organisational capacity to deliver Project </div> <div style="background-color: #00728f; color: white; padding: 5px;"> Merit Criteria 4 – Community engagement, shared benefits and land use considerations </div>	<u>Project Assessment</u>
<u>Financial Value Bid</u>	<p>Provide Security for Process Bond</p> <p>Financial Value Merit Criteria</p> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 5 – Financial value </div> <div style="background-color: #00728f; color: white; padding: 5px; margin-bottom: 5px;"> Merit Criteria 6 – Commercial departures </div> <div style="background-color: #00728f; color: white; padding: 5px;"> Merit Criteria 7 – Regional economic development </div>	<p>-</p> <p>Financial Value Assessment + Portfolio Assessment and due diligence including assessing:</p> <ul style="list-style-type: none"> - Long-term financial interests of NSW electricity customers - Application of other statutory requirements
<u>Recommendations</u>	None	Consumer Trustee risk management and statutory compliance considerations
<u>Award</u>	Execution of the relevant <u>Project Documents</u>	SFV awards LTESAs and EnergyCo grants Access Rights



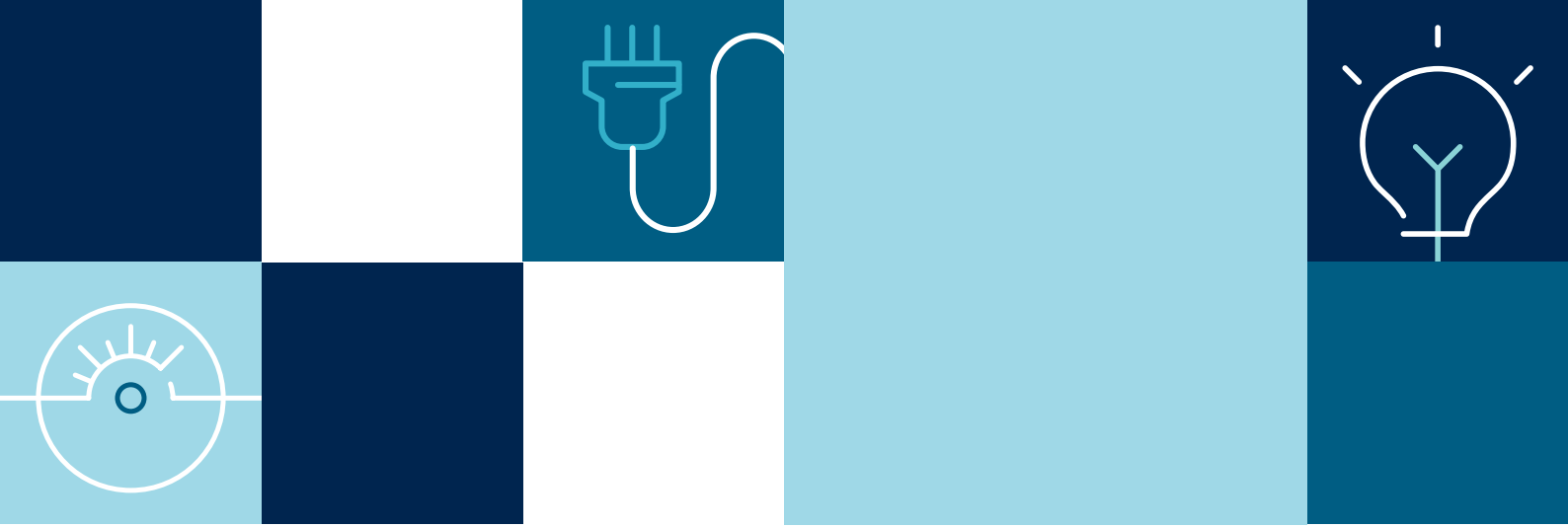
D. Application of Tender Conditions

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



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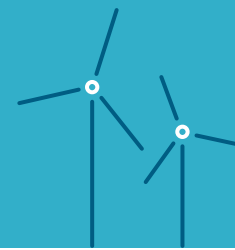
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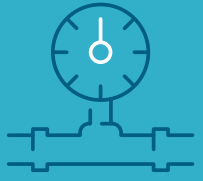
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1 Introduction

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

These Guidelines and the information contained herein will support Proponents in the preparation of high quality and competitive Bids.



Important Note:

SW REZ Access Rights – and sections of these Guidelines referencing the granting or increasing of SW REZ Access Rights (SW REZ AR References) – will form part of this Tender Round.

The Access Rights Supplement will form part of these Tender Guidelines, and the publication of an Access Rights Supplement will trigger the availability of Access Rights.

1.1 About AEMO Services

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

As the NSW Consumer Trustee, AEMO Services must act independently and in the long-term financial interests of NSW electricity customers.⁸ This responsibility is at the core of everything that AEMO Services does as the NSW Consumer Trustee.

As the Consumer Trustee, AEMO Services undertakes coordinated planning of long-term investment, designs and conducts competitive tenders under the EII Act to facilitate investment, authorises REZ network infrastructure, and provides financial risk management and advice.

AEMO Services' competitive tenders are directed to incentivise new investment in electricity generation, storage, and firming infrastructure through LTESAs and Access Rights.

1.2 About Tender Rounds

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

Energy transformation in NSW

AEMO Services' tenders are intended to support the energy transformation in NSW without getting in the way of what the market delivers best: innovation and drive to find new and better ways of delivering critical energy. Through competition, the market is expected to shape the mix of projects supporting our legislated investment objectives.

Multiple Products available

Multiple Products may be available in each Tender Round. The Products that are available in this Tender Round are:

- LDS LTESAs
- SW REZ Access Rights

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

Regular Tender Rounds

The Consumer Trustee has a rolling 10-year plan for competitive tenders under the IIO Report. The frequency of Tender Rounds and forward schedule allows Proponents to choose when to bid based on the maturity of their Projects and technology types.

This flexibility is expected to deliver higher quality Bids. It also gives the Consumer Trustee the flexibility to accommodate recent trends and changes in electricity infrastructure technology and the NEM, as well as customer and market participant behaviour.

Open to NSW

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

Certainty and transparency of process

Tender Rounds are designed to provide a transparent tender process to participating Proponents. A clear, consistent process supported by comprehensive and strategic information delivery is expected to attract more Proponents and yield higher quality and more competitive Bids.

⁸ Section 60(3) of the EII Act.

1.3 Structure of this document

Section with hyperlink	Content
Tender Round 5 details	An overview of the Tender Round, including available Products, tender size, key dates, and important information for Proponents.
Section 1: Introduction	Introduction to AEMO Services, structure of the Guidelines and the Tender Rounds.
Section 2: LTESAs and Access Rights	Descriptions of the Products available in this Tender Round.
Section 3: Tender and assessment process	Description of the steps of the tender and of assessment processes from the Tender Commencement Date to the award of LTESAs by the Scheme Financial Vehicle (SFV) and recommendation for granting of Access Rights by EnergyCo as Infrastructure Planner. Detailed instructions to Proponents on requirements to respond to the Eligibility and Merit Criteria (as prescribed in the Tender Rules).
Section 4: Assessment Criteria	Includes the Eligibility Criteria and Merit Criteria, details of information and evidence that must be provided by Proponents to demonstrate the merit of their Bid in the assessment process.
Section 5: Tender Conditions	Legal terms and conditions applicable to these Guidelines (including any Access Rights Supplement) and the Tender Round.
Section 6: Regulatory context	Background on AEMO Services as the NSW Consumer Trustee and other entities under the NSW Electricity Infrastructure Roadmap, applicable legislation and regulatory landscape that govern the Tender Rounds.
Project Documents	Includes proforma Project Documents applicable to all combinations of Products.
Glossary	Glossary of key terms and definitions.

2 LTESAs and Access Rights



This section provides an overview of the LTESAs and Access Rights, including their commercial features.

There are two Products available in this Tender Round:

- **Long-Duration Storage LTESA** – the indicative tender size is **1GW** of eligible long-duration storage (LDS) infrastructure
- **SW REZ Access Right** – the indicative tender size is up to **3.98GW** of generation, storage, or co-located hybrid project capacity connecting into the SW REZ Access Rights Network as defined in the [SW REZ Access Scheme Declaration](#).

2.1 Overview

LTESAs

An LTESA is a financial derivative contract between an LTES Operator and the SFV that is intended to provide an LTES Operator with mitigation against unexpectedly low electricity prices and exposure to upside where electricity prices are higher. The LTESA achieves this by providing the LTES Operator with a series of options to enter into fixed-length derivative arrangements.⁹

Item	Indicative tender size	Location
Long-duration storage (LDS) LTESA	1GW	All NSW ¹⁰

Table 1 below, provides a summary of the LDS LTESA features.

Table 1: Summary of LDS LTESA features

Product type	Feature
LDS LTESA	<ul style="list-style-type: none"> • A series of 2-year options to receive an annuity payment, for a contract term of up to 14 years for chemical batteries and 40 years for pumped hydro. The contract term is the lesser of 40 years or asset life for any other LDS technologies. <ul style="list-style-type: none"> – The Consumer Trustee is considering allowing for an Option Period of 1 year for Financial Value Bids for the LDS LTESA. This will be confirmed prior to the opening of the Financial Value Bid stage. • Available to all Projects in NSW that became committed after 14 November 2019.¹¹ • Available to storage units with registered capacity that can be dispatched for eight hours. • A repayment mechanism applies under certain circumstances.

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

- [LTESA Project Development Agreement \(LTESA PDA\)](#) – includes obligations on the LTES Operator to achieve Financial Close, construct and commission the Project, and comply with agreed social licence commitments as part of the Bid.
- [LTESA](#) – includes the specific terms of the derivative arrangements and ongoing operational obligations on the LTES Operator.

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

If the Project is connecting to the SW REZ Access Rights Network, the Proponent will also need to be awarded the SW REZ Access Right and enter into the contracts referred to below in the Access Rights section.

Projects that are bidding for both an LDS LTESA and a SW REZ Access Right, if invited to submit Financial Value Bids, will receive a different version of the LTESA Project Documents prior to the opening of Financial Value Bids.

⁹ Section 46(1) of the EII Act.

¹⁰ Tender Rounds are open to all Projects that meet the Eligibility Criteria of being in the NSW region of the NEM.

¹¹ Provided that the Eligibility Criteria are met.

Table 2: Key Commercial Terms – LDS LTESAs

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

¹² The Consumer Trustee is considering allowing for an Option Period of 1 year for Financial Value Bids for the LDS LTESA. This will be confirmed prior to the opening of the Financial Value Bid stage.

Access Rights

An **Access Right** authorises an Access Right Holder to apply to connect an approved Project to the Access Rights Network, and send out generation from the Project into the Access Rights Network up to its allocated Maximum Capacity,¹³ in accordance with an Access Scheme Declaration.

In its role as Infrastructure Planner, EnergyCo is coordinating delivery of five [Renewable Energy Zones \(REZs\)](#) across NSW, in Central-West Orana, Hunter-Central Coast, Illawarra, New England, and South-West. Under the respective Access Scheme Declarations for the Central-West Orana (**CWO**) REZ and SW REZ, Projects connecting to these REZs require Access Rights.

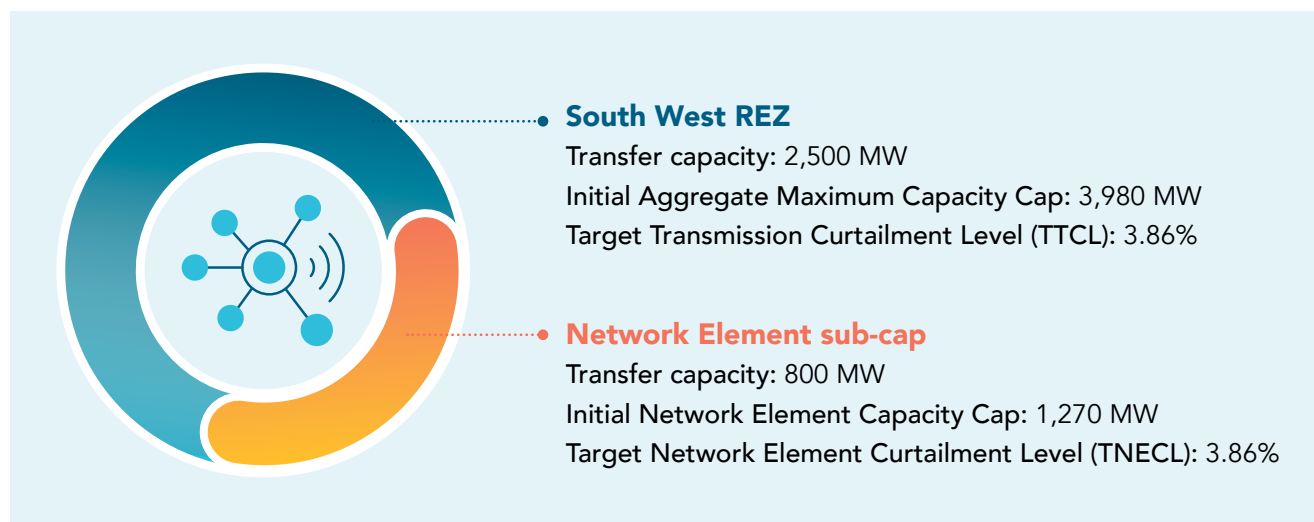
This Tender Round covers the Initial Allocation of Access Rights in the SW REZ as set out in the table below. Further details specific to the tender for SW REZ Access Rights will be issued in the form of an Access Rights Supplement to these Tender Guidelines.

Item	Initial Allocation	Location	Supplement
SW REZ Access Right	Up to 3.98 GW	SW REZ	Link

The expected transfer capacity of the Access Rights Network is 2.5 GW.¹⁴ In this Tender Round, SW REZ Access Rights may be granted up to the Initial Aggregate Maximum Capacity Cap of 3.98 GW. Part of the Access Rights Network is defined as a specified Network Element – the Buronga Network Elements.¹⁵ This Network Element has a transfer capacity of 800 MW. In addition to satisfying the conditions for award of SW REZ Access for the Access Rights Network as a whole, Access Rights to the Buronga Network Elements may be granted up to the Initial Network Element Capacity Cap of 1.27 GW, where the Infrastructure Planner is satisfied that doing so would not cause Forecast Curtailment on the Network Element to exceed the Target Network Element Curtailment Level (TNECL) of 3.86%.

The figure below represents the constraints of the Buronga Network Elements as a sub-component of the SW REZ. Further information is set out in the Access Rights Supplement.

Figure 1: SW REZ capacity and Buronga Network Elements



¹³ This does not in any way limit AEMO's central dispatch process, or its ability to dispatch a Project above its Maximum Capacity for a reason, including but not limited to a lack of reserve notice under the NER.

¹⁴ This number may be revised, in accordance with clauses (12) to (15) (inclusive) of Schedule 3 of the Declaration.

¹⁵ The Buronga Network Element is defined as the network elements from the Buronga substation to the Dinawan substation, excluding the Dinawan substation. Please see the Declaration for further details.

The Consumer Trustee may recommend, and EnergyCo, as the Infrastructure Planner, may grant, SW REZ Access Rights up to the Initial Aggregate Maximum Capacity cap of 3.98 GW under the Initial Allocation if:

- The Forecast Curtailment on the Access Rights Network does not exceed the Target Transmission Curtailment Level (TTCL) of 3.86%, and;
- The Network Element Forecast Curtailment on the Buronga Network Elements does not exceed the TNECL of 3.86%.

The Consumer Trustee will recommend to EnergyCo, as the Infrastructure Planner, the granting of SW REZ Access Rights based on the outcome of the assessment process. If the Initial Allocation of SW REZ Access Rights is not complete, the remaining SW REZ Access Rights are expected to be made available in subsequent rounds, subject to the EII Act (including the Access Scheme Declaration).

Table 3 below provides a summary of the SW REZ Access Right features.

Table 3: Summary of SW REZ Access Right features

Product type	Feature
<u>SW REZ Access Right</u>	<ul style="list-style-type: none"> • Right to apply to connect the approved Project to a specified part of the SW REZ Access Rights Network, and to send out generation from that approved Project up to its allocated Access Right Maximum Capacity in accordance with the NER and the Access Right Agreements.¹⁶ • Under the SW REZ Access Scheme Declaration, Projects that are located partly outside the REZ boundary are eligible for SW REZ Access Rights, provided the Project meets three requirements: <ul style="list-style-type: none"> – At least two-thirds of the area of the Project must be located within the geographical boundary of the REZ. – Projects connect or will connect into the Access Rights Network infrastructure at a location within the geographical boundary of the REZ. – Meets the eligibility criteria for the grant of an access right specified in the SW REZ Access Scheme Declaration.
<u>SW REZ Access Fees</u>	<ul style="list-style-type: none"> • Each Access Right Holder is required to pay a SW REZ Access Fee, as determined by the Consumer Trustee in accordance with Section 26 of the EII Act, to the SFV in accordance with the Access Payment Deed. • The terms of the Access Fee are contained in the SW REZ Access Fee Guidelines.¹⁷

¹⁶ Clause 6 of the SW REZ Access Scheme Declaration.

¹⁷ Any features of the SW REZ Access Fees described in this document are not final until the Consumer Trustee formally determines fees under section 26 of the EII Act. The Consumer Trustee may revise the Access Fee methodology and settings to ensure that it complies with its statutory obligations. Accordingly, this information may be subject to change, and does not bind the Consumer Trustee or limit its statutory discretion.

The award of a Access Right is conditional upon entry by the Selected Proponent into and compliance with the following contracts:

- [Access Right Project Development Agreement](#) (Access PDA) – includes obligations on the Access Right Holder to construct and develop the Project in accordance with the milestones, articulates the SW REZ Access Right terms, and contains commitments related to social licence. Selected Proponents enter into this agreement with EnergyCo.
- [Access Payment Deed](#) – includes obligations on the Access Right Holder to pay the Access Fee and bonding requirements for Projects. Selected Proponents enter into this agreement with the SFV. This draft document will be published on the 28 May.

An overview of the contracting structure can be found in [Section 3.3](#).

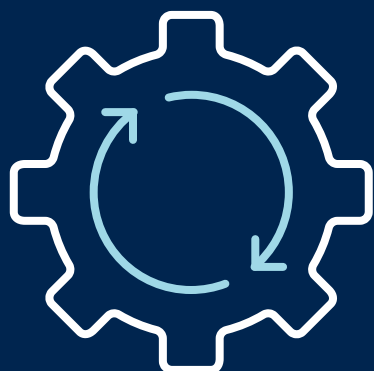
Consultation feedback is requested from Proponents on the Access Payment Deed and the Access Project Development Agreement by 19 June 5.00pm, to be sent to tender5@aemoservices.com.au. An updated version of these agreements will be published prior to the opening of Financial Value Bids.

Additional materials

The Access Fees payable by Access Right Holders are determined by the Consumer Trustee. A [draft SW REZ Access Fee Determination](#) is available for reference. The SW REZ Access Fee Determination is a statutory decision by the Consumer Trustee. Terms and payment schedules in the Access Payment Deed will reflect the South West REZ Access Fee Determination for each Project.

The SW REZ Access Fee Guidelines outline the expected methodology and design of Access Fees for the SW REZ by the Consumer Trustee, and a [draft Access Fee Calculator](#) is also provided to assist Proponents in estimating their Access Fees.

The [Target Transmission Curtailment Level and Headroom Assessment Method](#) paper for SW REZ outlines the methodology and design of TTCL by EnergyCo, including how TTCL will be managed during the SW REZ Access Scheme.



3 Tender and assessment process

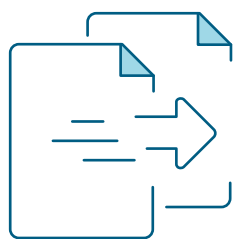
All Tender Round Bids are subject to the same assessment process, irrespective of the Product(s) being sought.

This section outlines the tender and assessment process that applies to all Proponents. The Consumer Trustee may vary this process, including cancelling the tender, where the Consumer Trustee considers that this is necessary to meet the long-term financial interests of NSW electricity customers.

Proponents and Projects for each Tender Round are required to demonstrate compliance with the [Eligibility Criteria](#) before being competitively assessed against the [Merit Criteria](#).

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

An overview of the tender process is illustrated in [Figure 2](#).

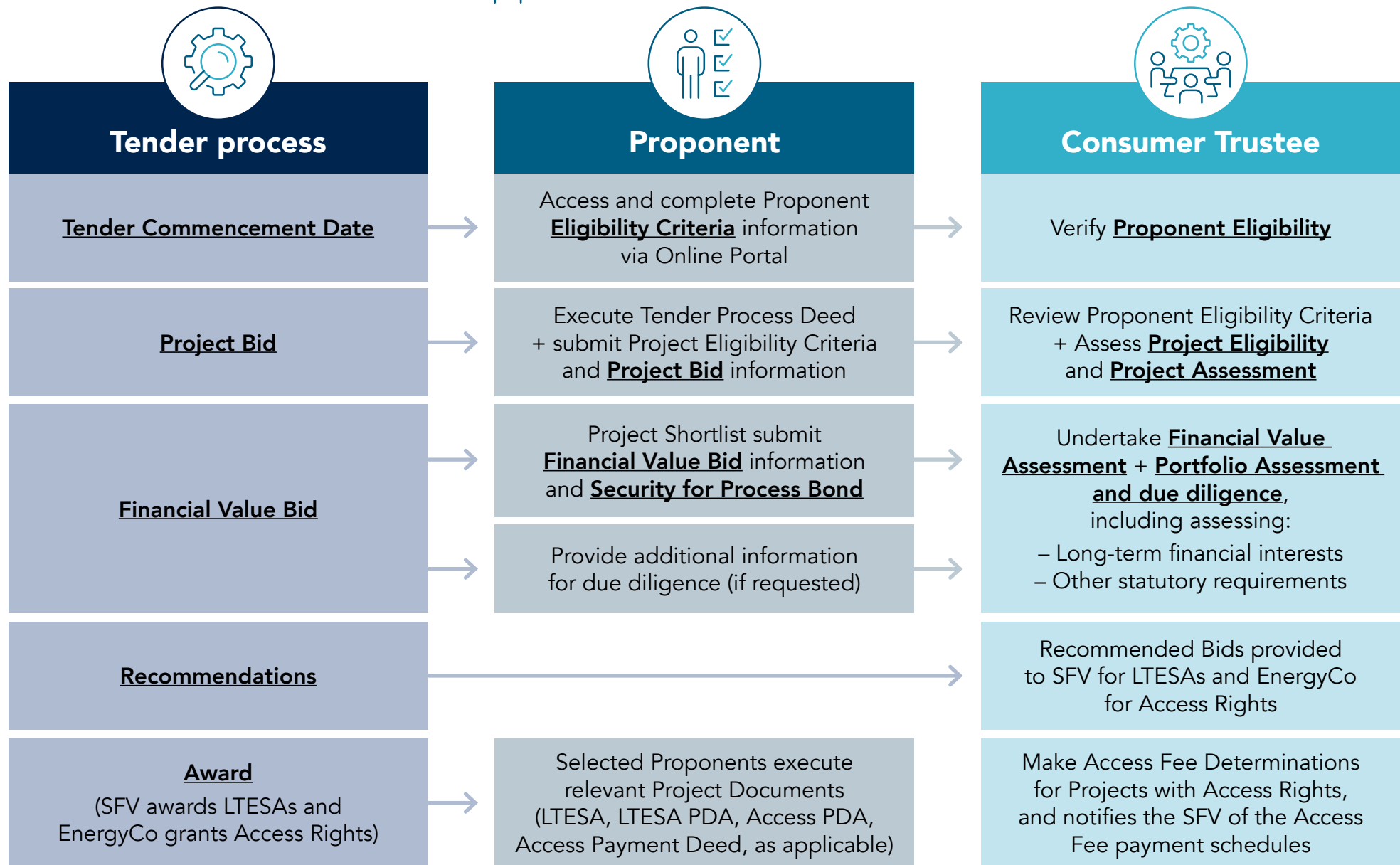


The Online Portal will store the information submitted by Proponents and their Projects. This information will be accessible by the Proponents for future Tender Rounds. Proponents from previous Tender Rounds can access their previous submissions through the Online Portal, use this information as a reference, and make any necessary changes for future Tender Rounds. This will make the participation process easier and less time-consuming. To manage data risk, Proponents may request for their information to be removed from the Online Portal if they do not intend to participate in future Tender Rounds.

Figure 2: Overview of the tender process



Select relevant step to learn more



3.1 Tender process

3.1.1 Submission of Bids and documents

From the Tender Commencement Date, Proponents will receive access to the registration form and Proponent Eligibility Criteria. Successfully registered Proponents must submit their Bids in two stages, a [Project Bid](#) and then, upon invitation, a [Financial Value Bid](#). Bids must be submitted via an electronic application form, supported by completed Returnable Schedules and other specified documents to be uploaded on the Consumer Trustee's [website](#) or as otherwise specified in an Access Rights Supplement.

Further details on the information and supporting documents required at each Bid stage are provided in the remainder of this section and [Section 4 – Assessment Criteria and Bid documentation](#).

Tender Process Deed

Proponents seeking to participate in the Tender Round are required to enter into a Tender Process Deed.

The Tender Process Deed must be executed at the Project Bid stage and contains customary provisions regarding the tender process, obligations relating to the protection of confidential information and limitations of liability.

The Tender Process Deed also governs the arrangements for the provision of, and recourse to, the Security for Process Bond required as part of the submission of a Financial Value Bid.

Proponents should read [Section 5.19](#) of these Guidelines in order to complete and execute the Tender Process Deed. If a submitted Tender Process Deed is incomplete or not properly executed, the Consumer Trustee may assess the Bid as Non-Compliant.

Non-Compliant Bids may not be considered further, at the Consumer Trustee's discretion.

Security for Process Bond

The terms governing the Security for Process Bond are set out in the Tender Process Deed. The Security for Process Bond is calculated as \$500/MWh for LDS or \$4000/MW for Access Rights, capped at \$800,000 per Project. The MW used for calculating the Security for Process Bond is the Project's intended Access Rights Maximum Capacity, and the MWh for LDS is the Project's energy storage capacity (at minimum 8 hour duration), unless otherwise agreed by the Consumer Trustee.

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

Where a Selected Proponent is awarded an LTESA, security for development and construction is also required to be provided by the party to the LTESA within twenty (20) Business Days of contract execution. This security is intended to provide collateral where a Project fails to meet Financial Close or commercial operation or fails to meet certain other obligations, in accordance with the relevant Project Documents. The terms governing the provision of this security are set out in the relevant Project Documents.

A description of the security arrangements required for a Project with an Access Right will be outlined in the relevant Access Rights Supplement and Access Payment Deed.

Q&A Process

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

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

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

Please note that the Consumer Trustee:

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

Late Bids

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

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

In these cases, the Consumer Trustee, in its discretion, will determine the acceptance of a Late Bid.

Extensions

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

Additional instructions or materials

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

Accuracy and completeness of information

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

If the required information is incomplete or is provided in a format inconsistent with the requirements of these Guidelines, the Consumer Trustee may seek supplementary information or clarification from Proponents; or may assess the Bid as Non-Compliant. Equally, if required documentation is incomplete, not properly executed (in the case of a deed/agreement), or is provided in a format inconsistent with the requirements of these Guidelines and the Tender Process Deed, the Consumer Trustee may assess the Bid as Non-Compliant. Non-Compliant Bids may not be considered further, at the Consumer Trustee's discretion.

External advice

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

The role of EnergyCo and other relevant entities

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

As the Infrastructure Planner, EnergyCo will provide advice to the Consumer Trustee on Bids seeking SW REZ Access Rights within the limits that are set under the relevant [South West REZ Access Scheme Declaration](#).

EnergyCo may also provide the Consumer Trustee with technical input as a subject matter expert on matters related to Eligibility Criteria, Merit Criteria and Portfolio Assessment.

AEMO may provide input on a Project's expected network impacts as the system operator.

The Consumer Trustee will engage with, and share Proponent information with, these and other relevant entities (including the SFV) as needed to administer its functions under the EII Act.



3.1.2 Tender Round Announcement

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

Tender step	Information to complete (including hyperlink)
Tender Commencement Date	<p>Register to participate in the Tender Round</p> <p>Proponent Eligibility Criteria</p> <p>Criteria to ensure that Proponents possess the requisite technical, financial, legal, and commercial capabilities to be able to deliver the Project.</p>

3.1.3 Project Bid

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

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

Tender step	Information to complete (including hyperlink)
Project Bid	Tender Process Deed
	<p>Project Eligibility Criteria</p> <p>Criteria to ensure that only eligible Projects progress to assessment against the Merit Criteria.</p>
	<p>Project Merit Criteria</p>
	 <p>Merit Criteria 1 – Impact on the electricity system</p>
	 <p>Merit Criteria 2 – Pathway to commercial operation</p>
 <p>Merit Criteria 3 – Organisational capacity to deliver Project</p>	
 <p>Merit Criteria 4 – Community engagement, shared benefits and land use considerations</p>	

3.1.4 Default and Alternative Bids

At the Project Bid Stage of this Tender Round, Proponents must submit a Bid for one of the following options:

Type of Project Bid	For which Project
Access Right and an LDS LTESA	For Projects seeking to connect to the new Access Rights Network AND seeking an LDS LTESA for financial support.
LDS LTESA only	For Projects seeking an LDS LTESA for financial support and intending to connect to existing transmission and distribution infrastructure, or the Central-West Orana Access Rights Network (as defined in the CWO REZ Access Scheme Declaration).
Access Right only	For Projects seeking to connect to the new Access Rights Network that are not seeking an LDS LTESA.

To provide flexibility and encourage commercial innovation, Proponents may submit **Alternative Financial Value Bids** for the same Project for an **LDS LTESA**, which is outlined below.

For Projects that submit an Access Right **and** an LDS LTESA Bid, only the LDS LTESA Bid can submit an Alternative Financial Value Bids.

Alternative Financial Value Bids are not applicable for Access Rights unless requested by the Consumer Trustee (see [Section 3.1.9](#)).

Type of Alternative Bid	Relevant Tender Stage	Relevant Product
Alternative Financial Value Bid	Proponents may submit an Alternative Financial Value Bid at the Financial Value Bid stage.	LDS LTESA where only the prescribed Bid Variables are adjusted. Not applicable for Access Rights Bids unless requested by Consumer Trustee (see Section 3.1.9).

3.1.5 Bid Variables

The tables below set out the key commercial terms and Bid Variables that must be supplied by each Proponent's Bid for an LTESA or Access Right. Proponents must submit a Default Financial Value Bid and may submit an Alternative Financial Value Bid in accordance with the below Bid Variables for each Financial Value Bid.

Table 4: LDS LTESA Bid Variables

Key commercial term	Default Financial Value Bid	Alternative Financial Value Bid
Option terms – MC1		
Contract term	14 years for chemical batteries and 40 years for pumped hydro. Lesser of 40 years or asset life for any other LDS technologies.	Bid Variable <i>Up to 14 years for chemical batteries or 40 years for pumped hydro.</i> <i>Up to the lesser of 40 years or the asset life for any other LDS technologies.¹⁸</i>
Exercise notice period	Min 6 months before Option Period	Min 6 months before Option Period
Net Revenue Threshold	Bid Variable	Bid Variable
Escalation	Annually at the lesser of Consumer Price Index (CPI) or 3%	Annually at the lesser of Consumer Price Index (CPI) or Bid Variable
Annuity terms (if option is exercised)		
Option Period	2 years ¹⁹	2 years ²⁰
Maximum Capacity	Bid Variable	Bid Variable
Annuity Cap	Bid Variable	Bid Variable (which may be a schedule of annuity caps varying by relevant annuity start date in fixed nominal dollars or subject to CPI escalation under a cap (Bid Variable) on annual escalation). See LDS LTESA Alternative Financial Value Bid explanation below.

Bid price options: LDS LTESA Alternative Financial Value Bid

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

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

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

¹⁸ The intent is to allow for a shorter and therefore more competitive contract term Bid Variable.

¹⁹ The Consumer Trustee is considering allowing for an Option Period of 1 year for Financial Value Bids for the LDS LTESA. This will be confirmed prior to the opening of the Financial Value Bid stage.

²⁰ The Consumer Trustee is considering allowing for an Option Period of 1 year for Financial Value Bids for the LDS LTESA. This will be confirmed prior to the opening of the Financial Value Bid stage.



The table below sets out the Bid Variables that must be supplied by each Proponent in order to submit a compliant Bid for an Access Right. This is in addition to the other requirements the Proponent needs to satisfy as set out in the Tender Guidelines, including the Access Rights Supplement.

Table 5: Access Right Bid Variables

Bid Variable	Description	Stage
Access Right Maximum Capacity (Default)	The requested maximum sent out generation in MW that a Project proposes to be authorised to dispatch in a capacity period, ²¹ if it receives an Access Right.	Financial Value Bid
Minimum Viable Project Size	Minimum viable size for the Project in MW. If the remaining Access Right allocation is below the Access Right Maximum Capacity Bid Variable, a Project may be offered Access Rights between the Minimum Viable Project Size and the Access Right Maximum Capacity ²² rather than the Access Right Maximum Capacity (see Section 3.1.11).	Financial Value Bid
Target Date for Financial Close	Milestone as defined in the Access PDA. Note that the sunset date for achieving financial close is expected to be 18 months after this Bid Variable.	Financial Value Bid
Target Date for First Commissioning	Milestone as defined in the Access PDA. Note that the sunset date for achieving first commissioning is expected to be 18 months after this Bid Variable.	Financial Value Bid

²¹ As defined in the SW REZ Access Scheme Declaration.

²² For example, if 3,480 MW of Access Rights has been allocated and there is 500 MW remaining for a Project of 1,000MW capacity.

3.1.6 Proponents with an Access Right

Under the EII Regulation,²³ to be eligible to participate in a Tender Round for an LTESA, a Proponent:

- must not have been previously awarded an Access Right in respect of the Project as a result of a competitive tender conducted by the Consumer Trustee except where the Consumer Trustee is satisfied that there are exceptional circumstances²⁴ (as specified by the Consumer Trustee); or
- must not have been previously awarded an Access Right in respect of the Project as a result of a competitive tender conducted other than by the Consumer Trustee; and the Project must not have achieved the Finance and Construction Criteria.²⁵

The Consumer Trustee intends to specify that the following will be recognised as exceptional circumstances (subject to other Eligibility Criteria being met) **for future tenders**:

- Projects that receive an Access Right through this Tender Round will be eligible to Bid for future Generation and LDS LTESAs up until the achievement of its Finance and Construction Criteria.²⁶
- A Project's existing Access Right has been terminated or has expired, and the Proponent is resubmitting a Bid for an Access Right and an LTESA.
- An Access Right Holder bidding for a new Access Right (at a separate connection point to its existing Access Right, noting that Access Rights are awarded per connection point) is eligible to bid its new Access Right capacity for an LTESA.
- An Access Right Holder bidding for an increase to its existing Access Right is eligible to bid its additional Access Right capacity for an LTESA.

Note: while the above represents the intention of AEMO Services as at the date of this document, no decision to specify 'exceptional circumstances' in accordance with EII Regulation, clause 28, has yet been made by the Consumer Trustee and the Consumer Trustee's actual decision may differ to the above.

²³ Clause 28 of the EII Regulation.

²⁴ The words "as a result of a competitive tender conducted by the Consumer Trustee" shown in this bullet point are inserted commencing 1 July 2024, pursuant to the Electricity Infrastructure Investment Amendment (Consumer Trustee and Infrastructure Planner) Regulation 2024 (NSW). Prior to 1 July 2024, this bullet point is to be read as "must not have been previously awarded an Access Right in respect of the Project, except where the Consumer Trustee is satisfied that there are exceptional circumstances (as specified by the Consumer Trustee); or".

²⁵ As an example, proponents that are awarded an Access Right through the CWO REZ Access Rights application process with EnergyCo can participate in LTESA tenders up until they have achieved their finance and construction criteria, assuming other eligibility criteria have also been met.

²⁶ Project commitment criteria named as the Finance and Construction criteria on the generator information page being the information resource established, maintained and published by AEMO under the National Electricity Rules, rule 3.7F, from time to time.

²⁷ The Consumer Trustee may make exceptions where, in its discretion, it considers there are grounds for the Project to be considered further by the Consumer Trustee – see Tender Rules 3.1.2.

²⁸ The Consumer Trustee may make exceptions where, in its discretion, it considers that there are grounds for the Project to be considered further by the Consumer Trustee – see Tender Rules 3.1.1.

3.1.7 Project Assessment

The Project Assessment applies to all compliant Project Bids, irrespective of the [Products](#) being sought.

Its purpose is to select a shortlist of Project Bids to progress to the Financial Value Bid stage (Project Shortlist). All information provided by Proponents is assessed on an ongoing basis.

Review Proponent Eligibility Criteria and assess Project Eligibility Criteria

- All Proponents must provide information to satisfy the Proponent [Eligibility Criteria](#). Proponents not meeting all Eligibility Criteria may cease to be further considered by the Consumer Trustee.²⁷
- The Project Eligibility Criteria are designed to ensure that only eligible Project Bids at an appropriate stage of development are assessed for merit.
- Projects that do not meet all Eligibility Criteria may cease to be further considered by the Consumer Trustee.²⁸

Assess Project Merit Criteria

- Project Bids are assessed and scored against the Project Merit Criteria.
- Lower scoring Project Bids against any Merit Criteria may not be assessed further and may not be shortlisted for progression to the Financial Value Bid stage.
- Higher scoring Project Bids may be invited to progress to the Financial Value Bid stage (i.e. to form the Project Shortlist).

Treatment of future commitments related to social licence

[Merit Criteria 4](#) and [7](#) encompass social licence commitments. Proponents are required to outline their commitments in respect of Merit Criteria 4 in their Project Bids, and Merit Criteria 7, in their Financial Value Bids. These commitments will form a schedule to the LTESA PDA or Access PDA (where relevant).

These commitments will be binding and subject to contractual monitoring and enforcement regimes. The enforcement regimes are intended to ensure Proponents make consistent efforts toward meeting their commitments but provides for substitution of social licence commitments in exceptional circumstances where commitments become impossible or unreasonable to meet.

Additional considerations for Proponents

The following sections are specific considerations for the Project Bid with respect to:

- Hybrid Projects
- Projects that can connect into an alternative part of the SW REZ Access Rights Network
- Projects bidding for both an LDS LTESA and Access Right
- Staged Projects and/or Projects with multiple connections

Treatment of Hybrid Projects bidding for LTESA and/or Access Rights

For the purposes of the LDS LTESA, Hybrid Projects are defined as co-located generation and energy storage assets where both assets **share a common connection point**. For this Tender Round, a Hybrid Project can **only** bid for an LDS LTESA. To be assessed as a Hybrid Project as part of MC5 (Financial Value), the Proponent must commit to deliver both components of the Hybrid Project (i.e., LDS and generation) as part of the LDS PDA.

For the purposes of Access Rights, Hybrid Projects are defined as co-located projects that have both generation and storage/load behind the same connection points. For the Access Rights Product, Proponents will require Access Rights to cover the Access Right Maximum Capacity they expect to send out into the Access Rights Network at any time.

A Project with multiple assets of the **same technology** connecting to the system through a single Dedicated Connection Asset (DCA) is not considered a Hybrid Project for the purposes of this Tender. The expectation is that the Project Documents may need to be amended to accommodate this type of Project.

Proponents that bid a Hybrid Project for either an LDS LTESA or Access Right:

- will be assessed against the Merit Criteria for both the generation and storage components of the Project; and
- will be contractually committed to deliver all components of the Project, which will be reflected in the Project Documents.

Further information and guidance will be provided for any Hybrid Projects that progress to Financial Value Bid stage.

Bidding for an alternative part of the SW REZ Access Rights Network

Projects that are able to connect into either the Buronga Network Elements or other parts of the Access Rights Network have the opportunity to be considered for both if Proponents select this option in their Project Bid. Proponents will need to provide information for both options for merit assessment, such as designs and land access for the alternative connection option (see [Section 4.2](#)). If a Project is bidding for both connection options and progresses to Financial Value Bid stage, the Consumer Trustee may allow or request an Alternative Financial Value Bid from the Proponent (see [Section 3.1.9](#)).

Projects bidding for both an LDS LTESA and Access Right

To be considered for an Access Right only in the event that a Project does not progress to Financial Value Bid for an LDS LTESA, Proponents need to provide an alternative revenue strategy if an LTESA is not awarded (see Section 4.2.1., MC2), and advise of any impact to their other project details (such as delays) in their Project Bid in this scenario.

Staged Projects and/or Projects with multiple connections

Proponents with staged Projects and/or Projects with multiple connections may need to consider how to participate in a Tender Round. The Consumer Trustee has not defined what constitutes a staged Project and will make this decision on a case-by-case basis after assessing the Project. The following are indicators of a staged Project:

- The Project has multiple grid connections and AEMO registrations.
- Each stage of the Project is capable of being owned by different equity holders, financed by different debt providers or built by different engineering, procurement and construction contractors.
- Stages of the Project may share infrastructure, but an initial stage is not necessarily dependent on a subsequent stage.

Projects that bid wholly in a single Tender Round will be assessed against the Merit Criteria and Eligibility Criteria as a single Project.

Staged projects may consider indicating the Minimum Viable Project Size of their Project, should they wish to be considered for a reduced Access Rights allocation in the event that their requested Access Right Maximum Capacity cannot be awarded (see [Section 3.1.11](#)).

Refer to [Section 3.1.8](#) of these Guidelines for further guidance on how Proponents with staged Projects and Projects with multiple connection points may participate in the Tender Round and how the Project Documents will treat those Projects.



3.1.8 Guidance on staged projects and projects with multiple connections

The guidance table below applies to Projects seeking an LDS LTESA and/or an Access Right.

It outlines how Proponents with staged Projects and/or Projects with multiple connections may participate in a Tender Round and the treatment of the Project Documents. Projects seeking Access Rights should note that an Access Right is required per connection point.

*Note: For **LDS LTESAs**, Projects with separate Dispatchable Unit Identifiers (DUIDs) per asset that have a shared connection point may bid their Project in the same manner as described below for Projects with multiple connection points. That is, each Generation DUID may be treated as a separate Project and be bid jointly in a single Bid or separately over multiple Bids in one Tender Round or across several Tender Rounds.*




*For **Access Rights**, Projects with separate Dispatchable Unit Identifiers (DUIDs) per asset that have a shared connection point, must bid their Project on a per connection point basis (aggregate DUIDs), not per DUID.*

Table 6: Guidance for staged Projects and Projects with multiple connection points

Project features	How Project may participate in a Tender Round	Treatment of Project Documents	Examples
A Project delivered over multiple stages with a single connection point (using the same technology type)	The Project has a single connection point and should be bid in a single Tender Round.	If successful, the Project will execute a single set of relevant Project Documents (LTESA, LTESA PDA, Access Payment Deed, and Access PDA). Where applicable, the first LTESA option will become available once all Project stages are operational.	A 600 MW solar farm is being developed in two stages connecting to a single connection point. The Project must bid for an LTESA in a single Tender Round, unless there are exceptional circumstances (see Section 3.1.6) For an Access Right , the Project may bid for the full Project as a single bid, or bid the first stage and return to bid the additional stage as an increase to its Access Right.
A Project delivered over a single stage with multiple connection points (using the same technology type)	Option 1: Submit one Bid for the Project including all connection points in a single Tender Round. Option 2: Submit multiple Bids for parts of the Project, per connection point in one Tender Round or in several Tender Rounds.	If successful, the Project will execute multiple relevant Project Documents (i.e., multiple LTESAs, LTESA PDAs, Access Payment Deeds and Access PDAs) for each connection point that has been bid in a Tender Round.	A 600 MW solar farm is being developed and connecting to two separate connection points each for 300 MW. The completion of this Project and connection of the two components is not staged. Option 1: The Proponent may bid the full Project as a single Bid in a Tender Round. Option 2: The Project may bid 300 MW connecting to a single connection point in a Tender Round and return to bid the additional 300 MW in a later round.
A Project delivered over multiple stages with multiple connection points (using the same technology type)	Option 1: Submit one Bid for all stages with multiple connection points in a Tender Round. Option 2: Submit one Bid for each stage and connection point in one Tender Round or in several Tender Rounds.	If successful, the Project will execute multiple relevant Project Documents (i.e., multiple LTESAs, LTESA PDAs, Access Payment Deeds and Access PDAs) for each connection point that has been bid in a Tender Round.	A 600 MW solar farm is being developed in two stages of 300 MW each that have separate connection points. The completion of each stage and connection will occur at two different points in time. Option 1: The Proponent may bid the full Project as a single Bid in a Tender Round. Option 2: The Project may bid 300 MW connecting to a single connection point in a Tender Round and return to bid the additional 300 MW in a later round.

3.1.9 Financial Value Bid and Alternative Financial Value Bid Assessment

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

Step	Information to complete (including hyperlink)
Financial Value Bid	 Merit Criteria 5 – Financial value
	 Merit Criteria 6 – Commercial departures
	 Merit Criteria 7 – Regional economic development
	Provide Security for Process Bond

Default Financial Value Bid

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

- Aligned with prescribed Default Financial Value Bid Variables.
- Include completed Returnable Schedules and marked up or compare versions of the relevant Project Documents.
- Include the [Security for Process Bond](#).

Alternative Financial Value Bids

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

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

Proponents must submit their Alternative Financial Value Bid using a separate set of Returnable Schedules for Merit Criteria 5 and Merit Criteria 6 to be submitted concurrently with the Default Financial Value Bid. The Consumer Trustee may, at its discretion, amend or request that shortlisted Proponents amend the permitted Bid Variables or number of Alternative Financial Value Bids in a Tender Round, at any stage of the tender process. In these cases, all the shortlisted Proponents at the relevant stage of assessment will be notified of the conditions and timeframe to prepare their Alternative Financial Value Bids.

Separate to the above provision, the Consumer Trustee may, in its discretion, request or allow Proponents to submit a revised Financial Value Bid for SW REZ Access Rights Bids. This could occur in limited circumstances where, for example, a Proponent may be:

- offered Access Rights at or above the Minimum Viable Project Size, which is below the Access Right Maximum Capacity of their Bid (see Section 3.1.11), or
- offered to connect into a different part of the Access Rights Network than their original Bid (see Section 3.1.7), or
- offered only an Access Right, where they have bid for both an Access Right and an LDS LTESA.

3.1.10 Financial Value Assessment

Financial value is the primary consideration for the Consumer Trustee in recommending Bids to the SFV.²⁹

The Financial Value Assessment of all Financial Value Bids is conducted against Merit Criteria 5 and 6, including Alternative Financial Value Bids.

Merit Criteria 5 – Financial Value

[Merit Criteria 5](#) will be assessed using the Bid Variables and the Project information submitted by Proponents. Merit Criteria 5 will apply to all Products in this Tender Round.

[Section 4.2.2](#) Merit Criteria 5 outlines how the Consumer Trustee will assess this criterion.

The Consumer Trustee will use a set of scenarios to consider multiple plausible outcomes in its scoring for Merit Criteria 5. The selected scenarios may change by Tender Round, and may contain permutations of:

- Electricity market outcomes.
- Weather reference years.
- Other considerations.

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

Scoring will be based on each aspect of Merit Criteria 5 and each modelled scenario.

Further guidance may be provided in the Merit Criteria 5 market briefing materials.

Merit Criteria 6 – Commercial departures

[Merit Criteria 6](#) assesses the materiality of any departures from the proforma Project Documents. Proponents are strongly encouraged not to propose any material amendments to the Access PDA. However, where a Proponent proposes departures to any Project Documents, the Proponent must submit:

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

- Clean versions of the Project Documents in a form ready for execution by the Proponent, including the Community Engagement Plan commitments and IAPP to be inserted as schedules to the PDA (i.e. requiring no further changes, including parties' details and execution clause).

Access PDA

Proponents seeking Access Rights will be required to submit a copy of the Access PDA as part of their response to MC6. Proponents are strongly encouraged not to propose any material amendments to the Access PDA. Where a Proponent proposes departures to the Access PDA, the Proponent must submit:

- A completed departure table (Returnable Schedule), including the reason for requesting each departure.
- A marked-up or compare version of the Access PDA with their proposed changes in a form that is ready for acceptance.
- A clean version of the Access PDA ready for execution by the Proponent, including the Community Engagement Plan commitments, IAPP, Project characteristics and milestones to be inserted as schedules to the Access PDA (i.e. requiring no further changes, including parties' details and execution clause).

EnergyCo, as the Infrastructure Planner, will provide advice to the Consumer Trustee as to the materiality of the proposed departures from the Access PDA, which the Consumer Trustee will take into consideration when selecting which Projects to recommend for Access Rights.

Access Payment Deed

Proponents seeking Access Rights are not required to submit a copy of the Access Payment Deed as part of their response to MC6. Proposals for material amendments to the Access Payment Deed may cause the Bid to be considered low merit.

²⁹ In accordance with Section 48(2) of the EII Act.

Assessment of Merit Criteria 6

Financial Value Bids with no requested departures from the proforma Project Documents are expected to score the highest against Merit Criteria 6, followed by any Financial Value Bids with minimal departures. Amendments that materially deteriorate the risk position of the SFV will result in a lower score or may restrict the Financial Value Bid from being considered any further in the assessment.

Proponents seeking an LTESA are also required to include a completed schedule to the relevant Project Documents for social licence commitments made in the MC4 Community Engagement Plan commitments and MC7 Industry and Aboriginal Participation Plan submitted in the Project Bid Stage. Any departures from the commitments made in the Project Bid Stage may result in a lower score or may restrict the Financial Value Bid from being considered any further in the assessment.

Proponents who submit a Bid for Access Rights are required to submit the completed schedules for social licence commitments, Project milestones and Project characteristics. Following a recommendation for Access Rights to the Infrastructure Planner, these schedules will form part of the Access PDA.

Assessment of Bids for an Access Right and LTESA

When assessing Access Rights and LTESAs, the Consumer Trustee will first assess the Financial Value of the LTESA and Access Right components of a Bid separately, before considering the recommendations of Access Rights and LTESAs as a portfolio.

Where Proponents bid for **both** an Access Right and LTESA, and they have specified in their Project Bid that the Project has an alternative pathway to commercial operation (MC2) without the LTESA (see Section 3.1.7), then in the event their LTESA Bid is unsuccessful, their Access Rights Bid will be considered without the added financial exposures for NSW electricity customers associated with their LTESA Bid (i.e. as Access Right-only). In this scenario where an Access Right only is offered, the Consumer Trustee may offer or request a revised Financial Value Bid for Access Rights from the Proponent (see Section 3.1.7 Alternative Financial Value Bids).

Merit Criteria scoring and initial portfolio composition

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

The Consumer Trustee will develop the Financial Value Shortlist with consideration given to the Total Merit Score and the objectives and requirements of the EII Act and EII Regulation.

The Consumer Trustee will also consider a range of strategic considerations relevant to the objectives and requirements of the EII Act and EII Regulation, in developing the Financial Value Shortlist.

For LDS Projects, these may include, but are not limited to:

- The IIO Report
- The Reliability Standard and the impact of the Project on unserved energy events

For Access Right Projects, these may include, but are not limited to:

- The Initial Aggregate Maximum Capacity Cap and Target Transmission Curtailment Level for the REZ.³⁰
- The Initial Network Element Capacity Cap and the Target Network Element Curtailment Level.

³⁰ As determined by the Access Scheme Declaration for that REZ.

3.1.11 Portfolio Assessment and due diligence

At the Portfolio Assessment stage, the Consumer Trustee will assess the cumulative impacts that may arise in consideration of the Financial Value Shortlist.

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

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

For transparency, Table 7 outlines the portfolio level adverse outcomes that may be considered in the Portfolio Assessment.

Due to the requirement for Forecast Curtailment on the Access Rights Network to be below TTCL and TNECL, and limitations on the amount of Access Rights for the Initial Allocation (including the Initial Network Element Capacity Cap), the Portfolio Assessment may identify that a Project may need to be offered a lower Maximum Capacity than the Access Right Maximum Capacity set out in their Financial Value Bid.³¹

If this is the case, the Minimum Viable Project Size for a Project provided at the Project Bid stage may be considered to fulfill the Initial Allocation, provided the Access Rights allocated under the Initial Allocation exceeds 90% of the Initial Aggregate Maximum Capacity Cap of 3,980 MW (so 3,582 MW), meaning the Infrastructure Planner may determine that the Initial Allocation has been completed.

The Portfolio Assessment may also consider Projects that have indicated that they can connect to either the Buronga Network Elements or another part of the Access Rights Network (see [Section 3.1.7](#)). For example, a Project that was not competitive for Access Rights for the Buronga Network Elements may be considered for their alternative connection option.

³¹ For example, if 3,480 MW of Access Rights has been allocated and there is 500 MW remaining for a Project of 1,000MW capacity.

Table 7: How issues identified at Portfolio Assessment may be considered

Issue	Where this may impact a Financial Value Shortlisted Project	How this may be considered (at the Consumer Trustee's discretion)
Adverse network effects	Where multiple shortlisted Projects are in a similar geographic location.	One or more Projects may be excluded from further consideration to avoid adverse network impacts where multiple shortlisted Projects are in a similar geographic location. These limits will be developed and applied at Portfolio Assessment, based on the Portfolio Shortlist.
Target Transmission Curtailment Level (TTCL) and Aggregate Maximum Capacity Cap (Access Rights)	Where the Forecast Curtailment of Projects bidding for an Access Right exceeds the TTCL of 3.86% of the Access Rights Network, or the aggregate maximum capacity of all Projects bidding for an Access Right exceeds the Aggregate Maximum Capacity Cap of 3.98GW.	<p>This is an assessment conducted by EnergyCo, as the Infrastructure Planner.</p> <p>One or more Projects may be excluded, or a Project may be offered a lower Maximum Capacity than their Bid, such that Access Rights can be granted without causing:</p> <ul style="list-style-type: none"> the Forecast Curtailment of the Access Rights Network to exceed the TTCL of 3.86%, or the aggregate maximum capacity of all Projects granted Access Rights to exceed the Aggregate Maximum Capacity Cap of 3.98GW.
Target Network Element Curtailment Level (TNECL) and Initial Network Element Capacity Cap (Access Rights)	Where the Forecast Curtailment of Projects bidding for an Access Right to connect into the Buronga Network Elements exceeds the TNECL of 3.86%, or the aggregate capacity of all Projects bidding for an Access Right to connect into the Buronga Network Elements exceeds the Initial Network Element Capacity Cap of 1.27GW.	<p>This is an assessment conducted by EnergyCo, as the Infrastructure Planner.</p> <p>One or more Projects may be excluded, or a Project may be offered a lower Maximum Capacity than their Bid, such that Access Rights can be granted without causing:</p> <ul style="list-style-type: none"> the Forecast Curtailment of the Buronga Network Elements to exceed the TNECL of 3.86%, or the aggregate maximum capacity of all Projects granted Access Rights to connect into the Buronga Network Elements to exceed the Initial Network Element Capacity Cap of 1.27GW
Adverse community effects	Where multiple shortlisted Projects without planning approval are in a similar geographic location.	One or more Projects may be excluded from further consideration to avoid cumulative impacts from multiple Projects which have the potential to significantly affect community support.
Supplier concentration risk	Where multiple shortlisted Projects are proposing to use the same contractors or original equipment manufacturers.	<p>This is a risk assessment to determine whether a supplier can meet its commitments to multiple successful Projects.</p> <p>The Consumer Trustee may seek more information to address any aggregate supplier capacity effects and it may not recommend one or more Bids to avoid supplier concentration risk.</p>
Counterparty concentration risk	Where several shortlisted Projects are proposed by the same Proponent, creating a material counterparty risk as determined by the Consumer Trustee with input from the SFV.	The Consumer Trustee may consider aggregated risks associated with multiple contracts with a single counterparty, including related entities. This assessment will consider whether a single Proponent can deliver multiple successful Projects.
Other adverse effects	Where a shortlisted Project has a material detrimental effect to a higher ranked Project, as determined by the Consumer Trustee.	The Consumer Trustee will retain discretion to rule out Projects where they have material adverse impacts on other, higher scored shortlisted Projects.



3.2 Consumer Trustee recommendation

The Consumer Trustee³² determines which Bids are recommended to the SFV and Infrastructure Planner (**Recommended Bids**).

Recommendations by the Consumer Trustee for LTESAs are made to the SFV and recommendations for Access Rights are made to EnergyCo, as the Infrastructure Planner.

The decision to recommend a Bid is at the discretion of the Consumer Trustee. The Consumer Trustee will only recommend a Bid where it considers that the recommendation would be in the long-term financial interests of NSW electricity customers (having regard to the assessment as a whole), and the recommendation satisfies or is consistent with all relevant statutory requirements and duties.³³

Recommendations for Access Rights to EnergyCo, as Infrastructure Planner, will also be made in line with the relevant Access Scheme Declaration.³⁴ Following recommendations for Access Rights, the Infrastructure Planner is responsible for award and contracting of the Access PDA. The Consumer Trustee does not have a role or oversight in the negotiation or finalisation of the Access PDA.

The SFV is responsible for contracting, and will be the counterparty to, the Access Payment Deed. The Access Payment Deed will have a condition precedent for the successful execution of the Access PDA.

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

³² Being the board of AEMO Services Limited, as the appointed Consumer Trustee, subject to any delegation made by the board with respect to the Recommended Bids.

³³ For example, under EII Act s 48(2), the financial value of LTESAs is to be the primary consideration for the Consumer Trustee when making a recommendation. Additionally, the Consumer Trustee must take into account the non-financial value criteria when making a recommendation in respect of an LTESA (see EII Regulation, reg 30(3)).

³⁴ EnergyCo may provide the Consumer Trustee with written advice on matters relating to the granting of Access Rights.

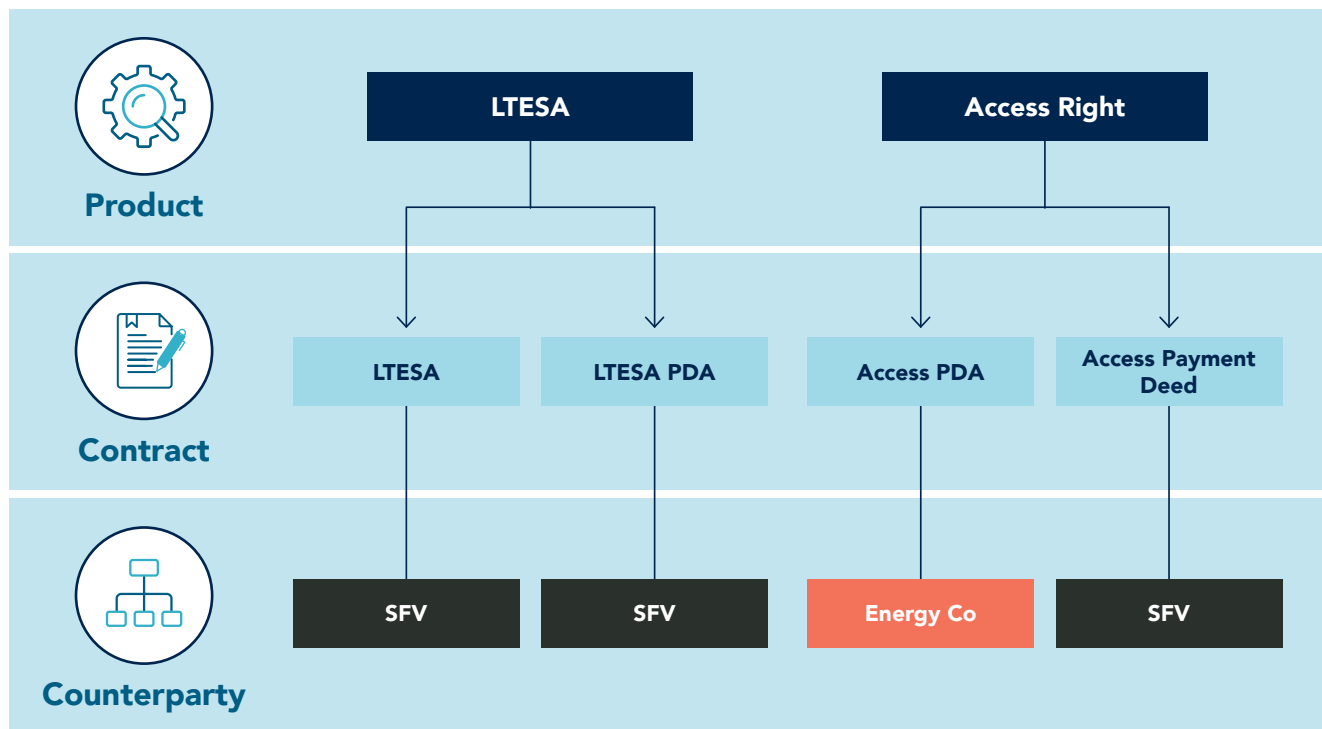
3.3 Award and contracting

Selected Proponents will enter into the relevant Project Documents with the SFV and the Infrastructure Planner, as applicable. An overview of the contracting structure for LTESAs and Access Rights is provided in Figure 3 below.

Recommendation by the Consumer Trustee to the SFV or EnergyCo, as applicable, does not guarantee award of contract (see [Section 5.36](#)).

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

Figure 3: Access Right and LTESA contract structure





4 Assessment Criteria and Bid documentation

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

The Assessment Criteria comprise the Eligibility Criteria and the Merit Criteria.

The Assessment Criteria have been designed to enable the Consumer Trustee to assess and recommend Projects consistent with the EII Act and the EII Regulation.

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



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

4.1 Eligibility Criteria (EC)

4.1.1 Proponent Eligibility Criteria

The requirements for the Proponent Eligibility Criteria are listed in Table 8. Proponents must propose one Bid Entity (EC16). Where such Bid Entity is not the Proponent, the Proponent must also provide equivalent information demonstrating that the Bid Entity also meets (or, when established, will meet) the Proponent Eligibility Criteria (other than EC16).³⁵

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

Table 8: Proponent Eligibility Criteria³⁶

Item	Criteria
EC14	<p>The Proponent, and the Bid Entity (if different to the Proponent) must:</p> <ul style="list-style-type: none"> (a) at the time of submitting the Project Bid, hold (or when established, will hold) an Australian Business Number (ABN), and comply (or when established, will comply) with all necessary authorisations that are material to the conduct of its business; (b) be one of: <ul style="list-style-type: none"> a. an Australian entity incorporated under the Corporations Act 2001 (Cth); b. a Commonwealth entity under section 10 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth) c. an Australian State or Territory owned (wholly or partly) corporation or a subsidiary of an Australian state or territory owned (wholly or partly) corporation; or d. an Australian local government or council or an Australian organization that is purposed with representing and supporting local governments or councils. <p><i>Note: In some limited circumstances, a legal entity other than those listed above may be accepted as an eligible Proponent. Any other entity that wants to participate must seek approval from the Consumer Trustee prior to submitting a Bid, per the contact listed on the Consumer Trustee website.</i></p>
EC15	Proponent 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.
EC16	The Proponent must propose one Bid Entity.
EC17	Proponent must not be, or become, bankrupt, insolvent, or be in, or enter into, administration, receivership or liquidation, or take advantage of any statute for the relief of insolvent debtors at any time during the Tender Round.
EC18	Proponent must not have had a judicial decision relating to employee entitlements made against it (not including decisions under appeal), where the Proponent has failed to pay any amounts required to be paid following that judicial decision.
EC19	Proponent must not have been named as an organisation that has not complied with the <i>Workplace Gender Equality Act 2012</i> (Cth).
EC20	<p>The Proponent must comply with:</p> <ul style="list-style-type: none"> • obligations under employment contracts, industrial agreements, and awards • codes of conduct and practice relevant to conditions of service and to the relations between the Proponent and the employees employed by the Proponent, and • applicable Workplace Health and Safety legislation.

Continued on next page

³⁵ Where the Bid Entity is not the Proponent, and will be a newly-incorporated Australian wholly-owned special purpose vehicle, it is expected that the Proponent will satisfy the Proponent Eligibility Criteria for that entity by providing information in relation to ECs 15, 17, 19 and 22 only.

³⁶ These criteria will be applied, as appropriate, to the corporate group of which the Proponent is a part and/or the project vehicle.

Item	Criteria
EC21	Proponent must not, within the previous 10 years, have been subject to an inquiry by the NSW Independent Commission Against Corruption, or an equivalent body in a jurisdiction in Australia, where a finding has been made against the Proponent (including that the Proponent has engaged in corrupt conduct).
EC22	If the Proponent is a 'reporting entity' under the <i>Modern Slavery Act 2018</i> (Cth) the Proponent must have complied with its obligations under that Act, including (if applicable) registering a Modern Slavery statement with the Commonwealth Attorney General's Department.

4.1.2 Project Eligibility Criteria

Requirements for Projects to meet the Project Eligibility Criteria are listed in Table 9. Where a Product (shown in columns) contains a tick against a Project Eligibility Criteria (shown in EC labelled rows), Proponents must provide information on their Project to demonstrate that their Project meets the listed criteria.

Projects that do not meet all applicable Project Eligibility Criteria may cease to be further considered by the Consumer Trustee. The Consumer Trustee may make exceptions to the application of the Project Eligibility Criteria where, in its discretion, it considers that there are grounds for the Project being further considered by the Consumer Trustee.

Table 9: Project Eligibility criteria

Item	Criteria	Access Right	LDS LTESA
EC1	Project must involve generation from a renewable energy source. ³⁷	✓	-
EC2	Project must have a generation capacity of not less than 30 MW.	✓ ³⁸	-
EC3	Project has not previously been awarded an: <ul style="list-style-type: none"> – LTESA; – Access Right where the Access Right was conferred under an Access Scheme as a result of a competitive tender conducted by the Consumer Trustee; or³⁹ – Access Right where the Access Right was conferred under an Access Scheme other than by way of a competitive tender conducted by the Consumer Trustee, and the infrastructure project has achieved the Finance and Construction Criteria. 	✓	✓
EC4	Project consists of storage units with registered capacity that can be dispatched for at least eight hours.	-	✓
EC5	Project must be registered or must state in its application that it intends to register, with AEMO for the central dispatch process under the NER in relation to the NSW region of the NEM.	✓	✓

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³⁷ However, this only applies to generation infrastructure with a generation capacity of not less than 30 megawatts – refer to section 43(1)(a) of the EII Act.

³⁸ Subject to the eligibility criteria requirements in the relevant Access Scheme Declaration and the eligibility criteria requirements as determined by the Infrastructure Planner, this criterion will not be applied for Access Rights allocated after completion of the Initial Allocation, nor for storage projects seeking an Access Right under the relevant Access Scheme Declaration.

³⁹ Except where the Consumer Trustee is satisfied there are "exceptional circumstances" which, if applicable, will be specified by the Consumer Trustee before conducting a competitive tender: EII Regulation, reg 28(1)(b), (2), and (3) for LTESAs). The words "as a result of a competitive tender conducted by the Consumer Trustee" shown in this bullet point are inserted commencing 1 July 2024, pursuant to the Electricity Infrastructure Investment Amendment (Consumer Trustee and Infrastructure Planner) Regulation 2024 (NSW). Prior to 1 July 2024, this bullet point is to be read as "Access Right where the Access Right was conferred under an Access Scheme".

Item	Criteria	Access Right	LDS LTESA
EC6	Project was not identified as committed or existing in the AEMO Generation Information page published (by AEMO) on 14 November 2019, unless it is an expansion project to an existing storage or generation asset or the Project involves the addition of new storage or generation assets to existing shared infrastructure.	✓	✓
EC7	Project must have received a Secretary's Environmental Assessment Requirements (SEARs) or, if SEARs do not apply, have lodged a Development Approval application under the Environmental Planning and Assessment Act 1979 (NSW) in relation to the Project. ⁴⁰	✓	✓
EC8	Projects must be in receipt of a connection agreement or a network service provider response to a connection enquiry. ⁴¹	-	✓ ⁴²
EC9	Project must submit a Community Engagement Plan, that will become contractually binding upon award.	✓	✓
EC10	The Project is not in receipt of financial support in the form of project capital support, periodic payments or revenue underwriting from State or Commonwealth government.	-	✓
EC11	Project must not be impacted by an order served on a relevant operator prohibiting connection to the relevant network infrastructure, under EII Act, section 29.	✓	✓
EC12	Project must not use (as applicable): <ul style="list-style-type: none"> • for generation infrastructure, generation from wood waste from timber native to Australia; and • for firming infrastructure, generation from biomass from timber native to Australia.⁴³ 	-	-
EC13	Project must be able to dispatch its registered capacity for a minimum specified duration (not applicable for this Tender Round, this applies to Firming Tenders).	-	-

⁴⁰ The Consumer Trustee understands that Projects that have significant development planning approvals may have formal documentation from relevant planning authorities that supersede the SEARS document. Evidence of these documents may be sufficient to satisfy EC7.

⁴¹ For Projects only requiring modification or amendment to an existing connection agreement, the Consumer Trustee may choose to exercise its discretion in relation to how this Eligibility Criterion will apply – further detail of the type and scope of information required to satisfy this criterion is set out in section 4.2.1 in relation to MC1 and MC2.

⁴² If an Access Right is sought for a Project, this eligibility criterion is not required to be met for an LTESA for that Project.

⁴³ EII Regulation, regs 28(2A), (2B). See also EII Regulation, reg 29(4).

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

4.2 Merit Criteria (MC)

Proponents will be assessed against the Merit Criteria in [Sections 4.2.1](#) and [4.2.2](#).

4.2.1 Project Merit Criteria

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



Select the relevant Merit Criteria to learn more



MC1 – Impact on the electricity system



MC2 – Pathway to commercial operation



MC3 – Organisational capacity to deliver Project



MC4 – Community engagement, shared benefits and land use considerations



MC1 – Impact on the electricity system

Scope: assess the impact that each Project may have on the electricity system. This is intended to:

- assess Projects' impact on the NSW electricity system, including congestion;
- assess Projects' ability to provide essential system services and/or contribute to system strength.

MC1 will apply to all Products in this Tender Round. However, different information is required for Access Rights and LTESAs to assess the Project against Merit Criteria 1.

For this Tender Round, Proponents seeking Access Rights are required to provide information equivalent to that provided for a Connection Enquiry under the NER, contained in the MC1 Returnable Schedule for Access Rights.

The connection enquiry information will be used to confirm the Project intends to connect to the Access Rights Network and will be shared with EnergyCo and Transgrid to commence the REZ Connections Process with Access Right Holders.

What is assessed	What is required	What we are looking for
LDS LTESA		
Impact on the electricity system	<ul style="list-style-type: none"> • Connecting to existing infrastructure: Overview of the Project's impact on the electricity system substantiated by recent grid connection studies and/or formal documents with AEMO and/or Network Service Providers (NSPs). • Connecting to new infrastructure (Central-West Orana or South-West REZ): Information equivalent to that required for a connection enquiry under the NER (same as for Access Rights Bid). • Features or characteristics of the Project (e.g. grid forming inverters, black-start capabilities) or associated planned works that could provide essential system services and/or contribute to system strength. 	<ul style="list-style-type: none"> • Evidence of the Project having minimal negative congestion impact on the NSW electricity network. • Demonstration of the Project's ability to provide essential system services and/or contribute to system strength, including evidence of commitment or progress to deliver these services, such as FCAS registration or agreements with AEMO or NSPs.
Access Rights		
Impact on the electricity system	<ul style="list-style-type: none"> • Information equivalent to that required for a connection enquiry under the NER. • Features or characteristics of the Project (e.g. grid forming inverters, black-start capabilities) or associated planned works that could provide essential system services and/or contribute to system strength (if applicable). 	<ul style="list-style-type: none"> • Project intends to connect to the Access Rights Network. • Demonstration of the Project's ability to provide essential system services and/or contribute to system strength, including evidence of commitment or progress to deliver these services, such as FCAS registration or agreements with AEMO or NSPs (if applicable).



MC2 – Pathway to commercial operation

Scope: assesses feasibility of the Proponents:

- pathway and progress towards reaching Financial Close (FC) and Commercial Operations Date (COD), including risks to timely Project completion;
- progress towards securing all required approvals, land and obtaining a network connection agreement.

Selected Proponents will have the target Financial Close, COD, and other key dates scheduled as milestones in the relevant Project Document(s).

For Proponents in the declared CWO and SW REZ Access Schemes that require a South West REZ Access Right, that are bidding for a South West REZ Access Right and/or LDS LTESA, information equivalent to a connection enquiry will be required under this merit criteria. For the purposes of the assessment of the connection approval progress, the provision of this information will be regarded as equivalent to having received a Connection Enquiry Response, to avoid Access Right Projects being penalised for not being able to progress connection enquiries due to the declaration of the REZ.

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

What is assessed	What is required	What we are looking for
Pathway to securing approvals, network connection, and land		
<p>For all Products</p> <p>Proponents are required to demonstrate their:</p> <ul style="list-style-type: none"> • Progress to securing land tenure and obtaining planning approvals relating to the NSW planning assessment process and Commonwealth environmental assessment approvals, if required. • If applicable, progress towards approvals required under the <i>Environment Protection and Biodiversity Act 1999</i> (Cth). • Progress made towards obtaining a network connection agreement from the relevant NSP in line with the target COD. 	<p>Timeline and Development Pathway</p> <ul style="list-style-type: none"> • A Project development plan and schedule (including a Gantt chart). • 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. • Planning approval documentation (e.g. Environmental Impact Assessment, Development Approval lodgement, notification, Development Approval decision notice). • Foreign Investment Review Board (FIRB) approval progress, requirements and/or any foreign ownership interests. • For Access Rights Bids, evidence of connection approval progress (below section) such as a Connection Enquiry Response is not required. By providing information equivalent to that required for a connection enquiry under the NER (see MC1 section), progress is deemed satisfactory. • A Project risk register that outlines key risks and relevant mitigants to achieving Financial Close and/or COD as planned. 	<ul style="list-style-type: none"> • Land tenure rights secured for all of the Project site including the connection route (where the connection route is the responsibility of the Project). • Evidence of progress towards securing all relevant planning and regulatory approvals and a pathway for securing any outstanding approvals required. • Confirmation from the Proponent as to whether FIRB approval for the Bid or the Project is required with supporting information including the Proponent's corporate structure, particularly in relation to any foreign ownership interests. If the Proponent or Bid Entity is foreign owned and does not believe FIRB approval is required, an explanation with supporting information will be required. • Demonstrates a clear understanding of the Project risks (including risks to securing grid connection, reaching COD, construction risks and financing risks) and identified appropriate mitigants to resolve or reduce the associate risks.

Continued on next page

What is assessed	What is required	What we are looking for
<p>For Bids seeking only an LTESA</p> <p>In addition to the above, Proponents are required to demonstrate their progress made towards obtaining a network connection agreement from the relevant NSP in line with the target COD.</p>	<ul style="list-style-type: none"> • Evidence of connection approval progress, such as: <ul style="list-style-type: none"> – Connection Enquiry Response; – Evidence of progress of the Generator Performance Standards (GPS) package with AEMO; – Clause 5.3.4 letter(s) (pursuant to clause 5.3.4 of the NER); – Evidence of progress of AEMO registration process; – Network (Grid) Connection Agreement (or any related documentation). • An outline of the key risks and relevant mitigants to your Project securing grid connection. 	<ul style="list-style-type: none"> • Significantly advanced progress with the relevant NSP and AEMO in relation to the Project. • Key risks to obtaining grid connection have been identified with appropriate mitigants proposed.

Pathway to financing and construction		
<p>For all Products</p> <p>Proponents are required to demonstrate their progress towards reaching Financial Close and COD, and their financial capacity to support the development, construction and operation of the Project.</p> <p>Alignment between the target date for achieving Financial Close and the plan to achieve COD will also be assessed.</p>	<p>Revenue strategy</p> <ul style="list-style-type: none"> • Revenue strategy, including (where relevant) terms and status of offtake or lease agreements. • Product mix and use cases for the technology, including estimated revenues from certificate programs, network services, bilateral agreements, and markets (as relevant) • For Projects applying for both an Access Right and LTESA, alternative revenue strategy if an LTESA is not awarded and the Proponent can demonstrate pathway to financing and construction with an Access Right without an LTESA. 	<ul style="list-style-type: none"> • Demonstrates a clear pathway to financing the Project, achieving Financial Close in the near-term and a clear pathway to achieve COD. <ul style="list-style-type: none"> – For Projects seeking Access Rights, pathway to achieving Financial Close by the Project's target date and a clear pathway to achieving COD in line with the Access Rights Network energisation date (with a reasonable buffer to mitigate risk of delay acceptable) must be shown. • Demonstrates a clear understanding of the Project risks associated with reaching COD and identified appropriate mitigants to resolve or reduce the associate risks. • Evidence of progress towards finalising capital raising activities, substantiated through supporting documentation. • Demonstrates a clear understanding and has identified the required commercial delivery model to develop the Project. • Demonstrates progress toward securing relevant Project agreements (construction contracts).

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What is assessed	What is required	What we are looking for
<p>For all Products</p> <p>Proponents are required to demonstrate their progress towards reaching Financial Close and COD, and their financial capacity to support the development, construction and operation of the Project.</p> <p>Alignment between the target date for achieving Financial Close and the plan to achieve COD will also be assessed.</p>	<p>Financing</p> <ul style="list-style-type: none"> • A financing strategy or plan, and terms or agreements, including: <ul style="list-style-type: none"> – Evidence of financing for development (e.g. approved development funding, approved early construction budget). – A demonstrated track record of the Proponent raising capital and/or engagement of external advisor with demonstrated track record of raising capital. – Proponents intending to utilise equity financing or corporate level debt facilities are to provide details on the current availability of such facilities and the level of organisational endorsement and/or approvals for using such facilities concerning the Project (e.g. evidence of engagement with debt/equity financiers, firm financial commitments/contracts). <p>Construction contracting</p> <ul style="list-style-type: none"> • Project 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. • Evidence of engagement with construction contractors and equipment manufacturers, such as: <ul style="list-style-type: none"> – EPC contractor engagement (e.g. correspondence, term sheet, early works contracts); – Technical design summaries; and/or – Other activities related to procurement and construction of the Project. – An overview of progress toward mitigating cost uncertainty, including an outline of key risks associated with cost certainty. 	<ul style="list-style-type: none"> • Demonstrates a clear pathway to financing the Project, achieving Financial Close in the near-term and a clear pathway to achieve COD. <ul style="list-style-type: none"> – For Projects seeking Access Rights, pathway to achieving Financial Close by the Project’s target date and a clear pathway to achieving COD in line with the Access Rights Network energisation date (with a reasonable buffer to mitigate risk of delay acceptable) must be shown. • Demonstrates a clear understanding of the Project risks associated with reaching COD and identified appropriate mitigants to resolve or reduce the associate risks. • Evidence of progress towards finalising capital raising activities, substantiated through supporting documentation. • Demonstrates a clear understanding and has identified the required commercial delivery model to develop the Project. • Demonstrates progress toward securing relevant Project agreements (construction contracts).

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What is assessed	What is required	What we are looking for
<p>For Bids seeking an Access Right</p> <p>In addition to the above, Projects seeking an Access Right are required to demonstrate their ability to provide bonding as required under the Access Right.</p>	<ul style="list-style-type: none"> • Demonstrated financial capacity and capability to provide bonding⁴⁴ required by target dates, including: <ul style="list-style-type: none"> – Evidence of support or approvals from financial institutions for the bonding requirements, up to the amounts outlined in Access Payment Deed. – Evidence of internal commitments to enter into bonding arrangements, including an overview of the approvals required and an outline of key milestones necessary to obtain internal approvals and external credit approvals. – Track record of providing bonding for projects historically or evidence of progressive financial commitments made toward similar projects previously. 	<ul style="list-style-type: none"> • Evidence that bonding can be provided at the required time and quantum, and that satisfactory consideration has been given to the risks associated with the provision of bonding. Evidence may include a letter of support from the bank that outlines: <ul style="list-style-type: none"> – The bank’s intention to approve and enter into a bank guarantee, letter of credit, or equivalent, up to the maximum amount of bonding required from the Proponent. – The bank’s intention to provide unconditional, credit approved letters confirming their intention to enter into bonding arrangements, at the time required. – Any conditions of their support. – Evidence will be assessed based on the conditions of support, with unconditional support to be scored the highest. • Detailed track record of providing bonding for projects historically or an outline of progressive financial commitments made towards projects historically. • Identification of key risks associated with the provision of bonding, including appropriate mitigants.

Foreign Investment Review Board

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

The Proponent must provide the Consumer Trustee with confirmation and relevant information regarding any approvals under the FIRB Regime which may be required for a Proponent’s Project.

The Consumer Trustee recommends Proponents seek legal advice with respect to any such approvals.

⁴⁴ Ability to provide the required bonding will be assessed against the Infrastructure Planner’s best estimate of the timeline and quantum. The assessment is based on approximations for both the timeline and quantum of bonding required, and these are subject to change. Assessment will occur at a point in time and will take into account the information at that point in time as it is known.



MC3 – Organisational capacity to deliver Project

Scope: the capacity, capability and track record of the Proponent, its management, and other relevant entities involved in the Project to deliver the Project.

What is assessed	What is required	What we are looking for
<p>Organisational capacity to deliver the Project</p> <p>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.</p> <p>Experience in engaging with relevant stakeholders required to deliver the Project, including public authorities, communities, regulatory entities and contractors).</p> <p>The capacity of the Proponent and its delivery partners to dedicate the necessary resources to deliver the Project on time, quality and budget.</p>	<ul style="list-style-type: none">• Procurement strategy and approach for resources required to deliver the Project (including status for contracting), including:<ul style="list-style-type: none">– Consultants and advisors.– Delivery partners during development, construction, and operations• Information on the track record of the Proponent's relevant projects delivered and/or operated in the last five years.• An overview of the credentials and capabilities of the Proponent and the Project partners' key personnel responsible for the delivery of the Project.• Roles and responsibilities of key resources required to deliver the Project, including consultants, advisors and delivery partners.• Information about Proponent's and Project's corporate structure outlining the relevant parent and subsidiary entities, and foreign ownership (if relevant).• Information about any material work, health and safety incidents, including evidence of steps taken to mitigate the likelihood of future incidents.	<ul style="list-style-type: none">• Proponent and/or delivery partners demonstrate a track record in delivering comparable energy generation and/or storage Projects (e.g. case studies of comparable projects, list/summary of previous projects delivered).• Proponent demonstrates a detailed and thorough understanding of procurement, including key resources and delivery partners/ advisors required to deliver the project, and detail into the availability of these resources and a strategy for procuring these, if not already procured.



MC4 – Community engagement, shared benefits and land use considerations

Proponents should refer also to [Section 3.1.7](#) of these Guidelines: ‘Treatment of future commitments related to social licence’.

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

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

Note for Access Rights Projects:

- The Community & Employment component of the Access Fee paid by Access Right Holders will be assessed as contributing towards MC4.
- Access Rights Projects are still required to provide a Community Engagement Plan outlining their commitments and community engagement activities.

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

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



For guidance, Proponents can refer to the [Market Briefing](#) and [guidance on completing social licence schedules](#)⁴⁵.

⁴⁵ These two documents should be read along with the Tender Guidelines, NSW Renewable Energy Sector Board Plan, and the First Nations Guidelines.

What is assessed	What is required	What we are looking for
<p>Consistent with EC9 (community engagement plan), all Bids must submit the completed MC4 Returnable Schedule – Community Engagement Plan commitments detailing commitments to share benefits with local communities and identify and implement land use benefits where appropriate. The schedule includes confirmation of commitments the Proponent makes as part of the local council and/or State Voluntary Planning Agreement (VPA)⁴⁶ and commitments above and beyond planning requirements.</p>	<ul style="list-style-type: none"> • Understanding and evidence of: <ul style="list-style-type: none"> – The impact the Project will have on communities and land use; and – How the Project will commit to minimise and offset that impact. • Description of outcomes of local community engagement and stakeholder mapping completed. • Description of proposed local community engagement activities that reflect the potential future impacts on the community. • Clearly articulated approach to First Nations Engagement. • Description of community acceptance for site selection and project layout, including consideration of community consultation and interests. • Description of the Project’s communication protocols. • Shared benefits initiative for the Project in the completed MC4 – Community Engagement Plan Returnable Schedule. 	<ul style="list-style-type: none"> • Clear identification of impacted communities and stakeholders and demonstration of understanding of the views and any issues or impacts raised, supported by evidence of appropriate local community engagement to date. • Clearly articulated local community engagement strategy tailored to the requirements of the Project and its impacts on stakeholders and communities. This should be mapped against Project timeframes and include robust governance arrangements and best practice engagement tools to facilitate community-led or community involved decision-making. • Evidence of First Nations best practice engagement and place-based design, where appropriate to the site, including demonstration of culturally aware engagement that has led to or is intended to establish meaningful relationships with relevant representative bodies. • Demonstrate consideration of early and collaborative community stakeholder engagement to inform site selection, including assessment of social and local considerations to understand community values and adapt the Project site to local site features where appropriate. • Integration with land use practices adopted by local landowners, e.g. agricultural practices and/or Traditional owners. Evidence of how site selection and/or layout has considered constraints, addressed community and stakeholder concerns, and an approach to avoid or mitigate impacts. • Demonstration of genuine and ongoing commitments to shared benefits exceeding local council and/or VPA commitments.

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⁴⁶ The Voluntary Planning Agreement is a legal agreement between planning authorities and developers which outlines contributions to the authority, under the *Environmental Planning and Assessment Act 1979* (NSW).

4.2.2 Financial Value Merit Criteria

This section outlines the information required to assess the Merit Criteria for the Financial Value Assessment of shortlisted Proponents. It applies to all combinations of Products being tendered as part of the Bid. Proponents will be required to complete a Financial Value Returnable Schedule.



MC5 – Financial value

Scope: the financial value of the Project, including the effect of the Project on:

- wholesale electricity costs;
- the costs of network infrastructure, including REZ infrastructure projects, required to support the Project (if applicable);
- the costs of other services associated with power system security;
- the payments that will be required to be made by the SFV under LTESAs (not applicable for Access Rights);
- other matters the Consumer Trustee considers relevant.⁴⁷

Merit Criteria 5 also requests the Bid Variables for both the [Default and Alternative Financial Value Bids](#). This information, and some Project information submitted in the Project Bid, will be used to assess financial value (see [Table 10](#)).

For guidance, Proponents can refer to the Market Briefing Notes for [Tender 1](#), [Tender 2](#) and [Tender 3](#).

⁴⁷ For LTESAs, clause 26(4) of the EII Regulation.

Table 10: Aspects considered under Merit Criteria 5

How we will assess it	What we are looking for
Wholesale electricity costs and market benefits	
<p>LDS LTESAs/Access Rights</p> <ul style="list-style-type: none"> The benefit that the Project’s operation may have in NSW is assessed. Wholesale electricity costs in NSW are forecast with and without the Project. The Project Benefit is then calculated as the reduction in wholesale price from the addition of the Project. Several future energy market scenarios will be modelled. Competitive projects will provide competitive benefits across a range of scenarios. 	<ul style="list-style-type: none"> Projects located in less constrained network locations with greater connection to load centres in NSW, particularly in high demand periods. An earlier Commercial Operations Date, such that projects can contribute towards reducing high market price forecast in early modelled years. A longer storage duration can contribute to reducing forecast market prices, particularly where scenario modelling results in extended high price or volatility events.
Net LTESA Cost	
<p>LDS LTESAs</p> <ul style="list-style-type: none"> Revenues are modelled for Projects across a range of scenarios. Payments to the SFV are calculated using a Project’s modelled revenues and a Bid’s Annuity Cap and Net Revenue Threshold. 	<ul style="list-style-type: none"> A low LDS LTESA Annuity Cap is expected to have greater impact on MC5 outcomes than the LDS LTESA Net Revenue Threshold. Both the Annuity Cap and Net Revenue Threshold have the potential to reduce Net LTESA Cost. An early COD to capture high Project revenues in early modelled years, reducing Annuity payment from the SFV. Any contractual commitments to exclude certain LTESA annuity periods or reduce the contract term.
Access Fees paid by Projects seeking an Access Right	
<p>Access Rights</p> <ul style="list-style-type: none"> Access Fees can reduce the amount for the SFV to recover from NSW electricity customers. The assessment will consider the benefit of the Access Rights Holder in reducing SFV costs and costs of the NSW Roadmap. 	<ul style="list-style-type: none"> Access Right Holders may be assessed favourably for their financial contribution to the SFV through the set Access Fee.

Table 11: Essential Project information sought for Merit Criteria 5 assessment

Information source	Description	Where it will be assessed
Degradation	<p>Proponents are to provide:</p> <ul style="list-style-type: none"> • A degradation profile for the Project, indicating annual degradation in aggregate for all Project components. • Evidence to demonstrate why the selected degradation profile is reasonable for the Project. <p>Should the Consumer Trustee not determine the evidence provided as reasonable, a standardised degradation profile may be used for the technology employed by the Project.</p>	<ul style="list-style-type: none"> • Wholesale market benefits • Net LTESA cost
Expected operational guarantee life	<p>Proponents are to provide:</p> <ul style="list-style-type: none"> • An expected operational guarantee life for the Project. • Evidence to demonstrate why the expected operational guarantee life is reasonable for the Project. <p>Should the Consumer Trustee not determine the evidence provided as reasonable, a standard operational life guarantee may be used for the technology employed by the Project.</p>	<ul style="list-style-type: none"> • Wholesale market benefits

The Product and Project details listed below will also be requested through the online application form and/or Returnable Schedules to support Merit Criteria 5 assessment:

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



MC6 – Commercial departures

Scope: the nature and extent of the commercial departures and the resulting risk-transfer from the proforma Project Documents. For Proponents seeking an LTESA, the LTESA PDA and LTESA will be assessed under MC6.

For Proponents seeking Access Rights, the Access Payment Deed, and the following schedules to the Access PDA will be assessed by the Consumer Trustee under MC2:

- Social licence commitments
- Project characteristics
- Milestones

Proponents will be required to submit these schedules as part of their Project Bid.

EnergyCo, as the Infrastructure Planner, will review the Access PDA and provide advice to the Consumer Trustee as to the materiality of departures.

What is assessed	What is required	What we are looking for
<p>Commercial departures</p>	<ul style="list-style-type: none"> • Completed departure table (Returnable Schedule), including the reason for requesting each departure. • Marked-up version or compare version of the relevant Project Documents (where applicable) with their proposed changes in a form ready for acceptance. • Clean versions of the Project Documents (where applicable) in a form that they are ready for execution by the Proponent (i.e. requiring no further changes, including parties' details and execution clause) and will be considered capable of acceptance. 	<p>Departures should be limited to those critical to the Proponent's commercial or technical requirements. All cases should consider the impacts of changing the proposed risk position in the proforma Project Documents. Bids will be scored against the following principles:</p> <p>For LDS LTESAs:</p> <ul style="list-style-type: none"> • Lower scores will be allocated to Bids where the departure(s): <ul style="list-style-type: none"> – Changes a term that is necessary for the LTESA to qualify under the EII Act or is required for the SFV to administer the LTESA as contemplated by the EII Act, the EII Regulation, and supporting regulations. – Alters consistency with other LTESAs or would bring additional administrative burden and cost to the SFV. – Alters any schedules that were submitted in Project Bid Stage (i.e. social licence commitments, Project characteristics, Project milestones). <p>For Access Rights⁴⁸ (Access PDAs):</p> <ul style="list-style-type: none"> • Lower scores will be allocated to Bids where the departure(s) result in material risk transfer to EnergyCo from positions in the proforma document. EnergyCo requests no departures to the legal and risk terms and conditions within the Access PDA unless absolutely necessary. • Higher scores will be allocated to Bids with no proposed departures.

⁴⁸ Commercial departures for the Access Payment Deed are not expected to be received or assessed.



MC7 – Regional economic development

Proponents should refer also to [Section 3.1.7](#) of these Guidelines: 'Treatment of future commitments related to social licence'.

Scope: demonstration and/or commitments to improve regional economic development, including local supply chain, workforce and First Nations participation.

The Consumer Trustee takes into account the [First Nation Guidelines](#) regarding consultation and negotiation with local Aboriginal communities and the [NSW Renewable Energy Sector Board Plan \(Sector Board Plan\)](#). The Industry and Aboriginal Participation Plan (IAPP) is an essential attachment and will become contractually binding on award. It is unlikely that any Bid will be successful if this is not provided.



For guidance, Proponents can refer to the [Market Briefing](#) and [guidance on completing social licence schedules](#).

Commitments towards achieving baseline requirements and/or stretch goals will be assessed against Table 12, based on considerations in the Sector Board Plan. Proponents should note that:

- Baseline requirements and/or stretch goals do not apply to technologies not listed in Table 12.
- Where a Project is not able to commit to any particular baseline requirement, the Proponent should:
 1. Stipulate the lower level of commitment that it can commit to for the relevant baseline requirements; and
 2. Provide a detailed justification as to the constraint (e.g. capacity, timeframe, or cost) that prohibits the requirements from being achieved. The robustness of the evidence and rationale provided will form part of the assessment.
 3. Demonstrate best efforts to meet the baseline requirement, including evidence such as procurement planning, market sounding, and engagement with suppliers or workforce groups.
- Project Bids that do not provide commitments will be assessed based on a nil response and may be assessed as Non-Compliant where insufficient justification is provided to support their response.
- Projects demonstrating best efforts to procure locally will be considered favourably under the relevant items. This is expected to contribute to build and improve the local supply chain for newer technologies.

- Projects that have progressed beyond the development stage should submit their performance details against the relevant targets to date and provide commitments relevant to future phases, including operations and maintenance.

Note that the following definitions apply to the commitments outlined in Table 12.

- **Total Project Contract Value (TPCV):** 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 MC7 IAPP Returnable Schedule. As the IAPP will become contractually binding on award, TPCV will be a defined term that is contractually enforceable in the relevant Project Documents.
- **Total Project Workforce (TPW):** 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 IAPP will become contractually binding on award, TPW will be a defined term that is contractually enforceable in the relevant Project Documents.

Table 12: Baseline requirements and stretch goals related to MC7⁴⁹

Supply chain inputs criteria <i>% for supply chain inputs refers to goods and services procured from in Australia & New Zealand as a percentage of the relevant metric indicated below</i>	Baseline requirements			
	Wind	Solar	Pumped hydro	Battery storage
Before COD – development and construction phase (% of total CAPEX)	40%	49%	66%	23%
After COD – operation and maintenance phase (% of total OPEX)	51%	71%	61%	35%
Steel product and components using locally milled steel (% of total Steel)	10%	95%	30%	95%
Supply chain inputs criteria	Stretch goals			
	Wind	Solar	Pumped hydro	Battery storage
Before COD – development and construction phase (% of total CAPEX)	72%	81%	86%	78%
After COD – operation and maintenance phase (% of total OPEX)	76%	81%	82%	79%
Steel product and components using locally milled steel (% of total Steel)	95%			
Investment and innovation in the supply chain	Baseline 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 Round, Proponents to make a voluntary but contractually binding commitment to investment and innovation.			
Employment, skills and knowledge transfer criteria	Baseline requirement		Stretch goal	
Learning workers⁵⁰ (% of total Project workforce)	20%		40%	
Apprentices (% of all trades positions on a Project)	20%		30%	
First Nations participation criteria	Baseline requirement		Stretch goal	
First Nations participation (% of TPCV)	1.5%		10%, or the goal in the region-specific protocol under the First Nations Guidelines.	
Fair and ethical practice criteria	Baseline requirement		Stretch goal	
Employment of underrepresented groups⁵¹ (% of total Project workforce)	15%		25%	

Numerical minimum requirements do not apply. Proponents are required to respond to evidence requirements to demonstrate environmentally sustainable procurement. This includes:

- Alignment with NSW Net Zero Plan.
- Alignment with NSW Circular Economy Policy Statement.
- Sourcing materials according to EN15804, Green Building Council's or other appropriate sustainability framework.

⁴⁹ This section is based on the considerations in the NSW Renewable Energy Sector Board Plan.

⁵⁰ Note: as defined in the NSW Renewable Energy Sector Board Plan, a 'learning worker' is a worker without qualifications or who needs to update their qualifications or skills to meet the needs of the infrastructure project. This includes trainees and apprentices. Once defined as a learning worker, the worker maintains this status for the duration of the project. All workers on a project who undertake accredited training count towards the learning worker requirement, not just construction workers. The project workforce includes all people who contribute to the project. This includes people such as managers, engineers, finance team, environmental team, safety team, construction employees consisting of supervisors, those in leadership roles, tradespeople and operators. People who undertake training organised by the contractor prior to employment are counted as learning workers only if they are employed on the project. Training must be accredited vocational education and training (VET) or nationally recognised professional qualifications that meet the needs of the project and can be full or part qualifications (such as one or more units of competency). It may be subsidised by government funding or through a fee-for-service arrangement. Participants in the NSW Government Trade Pathways Program are to be included as learning workers and count towards achievement of this outcome.

⁵¹ 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.

What is assessed	What is required ⁵²	What we are looking for
<p>Local supply chain development (including investment, innovation and environmentally sustainable procurement)</p>	<ul style="list-style-type: none"> • Completed MC7 Returnable Schedule with local supply chain target commitments. Additional supporting information that may include: <ul style="list-style-type: none"> – Strategies and activities to demonstrate how targets will be achieved. – Strategies and/or initiatives to address barriers to entry for small and medium-sized enterprises (SME's), including but not limited to, Aboriginal-owned businesses. – Description and evidence of paying small business subcontractors (e.g. favourable contract payment terms, internal process document and/or declaration of timely payment). 	<ul style="list-style-type: none"> • Demonstration of Project commitment to meet or exceed relevant technology baseline requirements at Table 12. If the proposed Project uses a combination of technologies, Proponents are expected to use a 'weighted average' method to measure the contribution as a percentage of Total Project Contract Value. • Evidence of clear strategies, actions, policies, and practices to support the achievement of commitments, including demonstrated understanding of specific local context and/or Project-specific considerations. • Commitments to investment and innovation in the local supply chain in the NSW renewable energy sector, including but not limited to R&D related to the technology used and support for start-ups and social enterprises related to renewable energy and First Nations communities. • Evidence of the strategies, actions, policies, and practices that will support environmentally sustainable procurement throughout the supply chain on the specific Project. <ul style="list-style-type: none"> – Consideration may include, but is not limited to, environmentally sustainable procurement in its operations (e.g. construction site waste, net zero plan, reducing water usage) and promoting sustainable practices throughout the supply chain (e.g. participating in or committing to battery recycling programs or research). – This may include alignment with NSW Net Zero Plan and/or NSW Circular Economy Policy Statement and/or sourcing materials according to EN15804, Green Building Councils or other appropriate sustainability frameworks. – Evidence of policies to support and meet obligations to SME subcontractors, e.g. track record of SME procurement on projects, timely payment and/or favourable payment terms. – Demonstration of successfully meeting similar local content procurement on previous projects.

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⁵² Including Proponents for Projects that have reached Financial Close or COD.

What is assessed	What is required	What we are looking for
Employment and workforce development	<ul style="list-style-type: none"> • Completed MC7 Returnable Schedule with workforce target commitments. This may include: <ul style="list-style-type: none"> – Description of activities to upskill and develop local workforce as part of the Project delivery. – Description and commitments of education, training and/or capacity building for First Nations Businesses. 	<ul style="list-style-type: none"> • Demonstration of Project commitments to meet or exceed baseline requirements at Table 12. • Outstanding strategies, supported by evidence, to support local workforce development (e.g. pre-employment training, scholarships, cross-skilling to renewables and supporting apprentices). This may include employment initiatives or programs undertaken by the Proponent to upskill and develop local workforces (e.g. programs for hard-to-reach, underrepresented groups such as women, long-term unemployed and Aboriginal people from the local region).



5 Tender Conditions

5.1 Application and agreement to comply with these Tender Conditions

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

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

By participating in the Tender Round, each Proponent (and each Consortium Member):

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

The Tender Conditions apply to:

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

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

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

5.2 Interpretation

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

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

5.3 Not an offer

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

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

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

The Consumer Trustee does not enter into or sign the Project Documents.

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

5.4 Liability

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

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

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

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

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

Except to the extent the context requires otherwise:

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

5.5 No warranty

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

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

5.6 No representations

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

5.7 Compliance with protocols

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

5.8 Bonding requirements

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

5.9 Confidentiality

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

The Proponent or any Consortium Member must:

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

A Proponent, Consortium Member and each of their respective Associates must not disclose Disclosed Information to any person who is involved with a Competing Proponent.

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

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

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

The Proponent consents to the Consumer Trustee disclosing its name and any Project details to the Commonwealth, if the Proponent's Bid is likely to be successful and it is likely to be awarded an LTESA and / or Access Rights. The Commonwealth may also disclose the Proponent's name and any Project details to the Consumer Trustee, if the Proponent may be successful in securing funding under the Commonwealth's Capacity Investment Scheme, and that funding relates to a Project subject of a Bid in this Tender Round. The Consumer Trustee may use any such information received from the Commonwealth for the purpose of assessing the Proponent's Bid.

The Consumer Trustee collects, uses and discloses Personal Information as set out in the Consumer Trustee's [Privacy Policy](#) (which is available on the Consumer Trustee's [website](#) and may be updated from time to time).

5.10 Consumer Trustee intellectual property

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

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

5.11 Others to be bound

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

5.12 Continuing obligations

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

5.13 Requirements of the Tender Round

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

5.14 Requests for clarification and further information

If a person finds any discrepancy, error, or has any doubt as to the meaning or completeness of these Guidelines or the Tender Round, or requires clarification on any aspect of these Guidelines or the Tender Round, they may notify the Consumer Trustee in writing through the Q&A Process operated by the Consumer Trustee in accordance with Section 3.1.1 of these Guidelines, not less than 7 Business Days prior to the Project Bid Closing Date and Time (during the Project Bid preparation stage) or Financial Value Bid Closing Date and Time (during the Financial Value Bid preparation stage). The Consumer Trustee may at its discretion make deidentified questions and clarifications available to all Proponents. The Consumer Trustee may also publish an Addendum to all Proponents clarifying the discrepancy, error, doubt, or query (as the case may be) and may extend the relevant Closing Date and Time if the Consumer Trustee considers it appropriate in all the circumstances.

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

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

Meetings with the Consumer Trustee

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

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

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

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

Nothing which occurs at a meeting may be relied on by the Proponent, Consortium Members and their respective Associates unless subsequently confirmed in writing by the Consumer Trustee.

5.15 Improper assistance

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

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

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

5.16 Conflict of interest

Primary obligation in relation to conflicts of interest and notification requirements

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

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

If any:

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

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

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

Conflicts of interest between Competing Proponents

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

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

Conflicts of interest regarding Associates

In addition to the primary obligation on Proponents and Consortium Members above in this Section 5.16, the Consumer Trustee may at any time during a Proponent or Consortium Member's participation in the Tender Round request a list of any or all of a Proponent or Consortium Member's current:

- a. Debt or Equity Providers;
- b. third party suppliers;
- c. third party subcontractors; and or
- d. Associates

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

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

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

- d. the Consumer Trustee has confirmed that such Conflict Protocols have been implemented by the relevant parties to the Consumer Trustee's satisfaction.

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

Conflict of interest between the Consumer Trustee and a Proponent

In addition to the primary obligation on Proponents and Consortium Members above in this Section 5.16, a Proponent or Consortium Member must promptly notify the Consumer Trustee of any relationship it or its Associate (including any Consortium Member) may have with any entity involved or connected with the Project or the administration of the Tender Round, any experts, consultants or advisers appointed by the Consumer Trustee for the purposes of evaluation during the Tender Round, and any entity involved in the NSW Electricity Infrastructure Roadmap.

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

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

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

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

5.17 No anti-competitive conduct

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

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

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

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

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

5.18 Submitting a Bid

A Bid must meet the requirements for submission set out in these Guidelines and must be submitted using the Online Portal as specified in Section 3.

5.19 Proponent structure, Consortium Members and Associates

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

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

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

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

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

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

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

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

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

5.20 Change to Proponent structure, Consortium Members and Associates

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

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

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

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

- a. require the relevant parties to enter into a Consortium Process Deed or accession deed (as applicable) or to take any further action required by the Consumer Trustee (including providing any written acknowledgements as to the Proponent's structure or membership);
- b. assess the relevant change in circumstances and elect to terminate the Proponent's or any Consortium Member's further participation in the Tender Round; and/or
- c. invite the Proponent to amend its Bid accordingly.

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

5.21 Material disclosures

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

The Assisting Entities are likely to be involved in assisting the Consumer Trustee to assess Bids.

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

5.22 Proponents to perform own due diligence

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

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

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

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

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

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

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

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

5.23 Bids commercial-in-confidence

The Consumer Trustee will retain all Bids and may copy and distribute at any time Bids for the purposes of conducting the Tender Round, including negotiation and evaluation of Bids, to support its due diligence and strategic risk-assessment and to publish the terms of the Project Documents on a de-identified basis.

Bids will otherwise be treated as confidential and will not be disclosed outside the Consumer Trustee unless it is:

- a. required or permitted by Law, or in the course of legal proceedings;
- b. requested by any Authority; or
- c. to the Assisting Entities, or the Consumer Trustee's insurers for any purpose described in Sections 5.23 and 5.24 of these Guidelines.

5.24 Use of Bids

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

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

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

5.25 No amendment

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

5.26 Withdrawal of Bid

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

5.27 No requirement to return

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

5.28 No reimbursement of costs

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

5.29 No publicity

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

5.30 Discretion of the Consumer Trustee

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

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

- a. reject, refuse or cease to consider, or accept, any Bid that does not comply with the requirements of these Guidelines or the Tender Conditions or which is otherwise incomplete;
- b. suspend or terminate the Tender Round (providing such notice as is reasonably practicable), including any component of the Tender Round;
- c. elect not to further evaluate any Bid that fails to satisfy the Eligibility Criteria or the Merit Criteria;
- d. reject or accept any Bid notwithstanding whether such Bid is the lower priced, higher-ranked, or otherwise;
- e. make a recommendation (or not make a recommendation) in respect of any Bid at any stage of the Tender Round (including making a recommendation (or not making a recommendation) to award an LTESA or Access Right (as applicable) to a Proponent which had (or did not have) the highest ranked Bid as against the Eligibility Criteria or the Merit Criteria) or make a recommendation that is subject to any terms and conditions that the Consumer Trustee may consider appropriate;
- f. accept or reject the whole or part of any Bid to the extent, in the case of part-acceptance, that part of the Bid is capable of such partial acceptance;
- g. suspend or terminate a person's participation in the Tender Round if the Consumer Trustee forms the view that the person (or their Associate) has breached or not complied with the Tender Documentation. For the avoidance of doubt, the Consumer Trustee is not obliged to exclude a Proponent or any other person from continued participation in the Tender Round in the event that a Proponent or any other person fails in whole or part to comply with the Tender Documentation;

- h. require, request, receive or accept (whether requested or not) additional information, material, clarification or explanation from any Proponent or Consortium Member at any time and the Consumer Trustee may, at its sole discretion, take such information, material, clarification or explanation into consideration in its evaluation of a Bid;
- i. if additional information is required by the Consumer Trustee pursuant to sub-paragraph (h) and not provided within the timeframe nominated by the Consumer Trustee (if any), continue to evaluate the Bid on the basis of the information available;
- j. waive any or all (in whole or in part) of the obligations of a Proponent, Consortium Members or their respective Associates (or a Competing Proponent or its Associates) under the relevant Tender Process Deed or the requirements under these Guidelines;
- k. consider and accept a Bid regardless of whether any Proponent, Consortium Member or any of their respective Associates has breached or not complied with any Tender Conditions and despite the existence of departures from the Guidelines or technical specifications for the Project or Tender Conditions;
- l. vary or supplement any of the Tender Conditions or other aspects of these Guidelines;
- m. without limiting sub-paragraph (l), cancel, supplement, vary or amend the terms of any information, requirements, procedures, selection criteria and protocols relevant to the Tender Round having regard to probity requirements and advice;
- n. change the timing, order or application of any phase or process in the Tender Round;
- o. supplement, remove, add to or vary any part of the Tender Round;
- p. accept or reject a Bid which is submitted at any time after the relevant Closing Date and Time or which is submitted otherwise than in accordance with these Guidelines;
- q. accept or reject any clarification question which is lodged by a person in respect of the Tender Round after the time and date specified, or otherwise in the manner specified, in these Guidelines as the Closing Date and Time for such questions or requests;
- r. extend any time or date specified in these Guidelines;
- s. call for new Bids;
- t. negotiate with any Proponent on any matter the Consumer Trustee may determine, including allowing some Proponents to clarify, alter, amend, add to or change its Bid after the relevant Closing Date and Time without offering the same opportunity to all Proponents;
- u. in evaluating any Bid or selecting a Selected Proponent, have regard to:
 - i. past performance and corporate history of any Proponent, Consortium Member or any of their respective Associates;
 - ii. information concerning a Proponent, Consortium Member or their respective Associates which is in the public domain, or which is obtained by the Consumer Trustee or its Associates through its or their own investigations;
 - iii. information provided by a Proponent in response to a particular evaluation criterion for the purpose of evaluating other criteria;
 - iv. any other matters arising from investigations (including probity investigation) by the Consumer Trustee or its Associates, interviews with Proponents or Consortium Members, or responses to clarifications by Proponents or Consortium Members; and without notifying the Proponent or a Consortium Member (if applicable) of that information;
- v. appoint or decline to appoint any number of Selected Proponents or change Proponents or Selected Proponents at any time;
- w. require one or more of the Proponents to make a 'best and final offer';
- x. subject to any Laws, withdraw, cancel or modify (substantially or otherwise) a Tender Document or Project Document or any part of a Tender Document or Project Document;
- y. change the procurement method of the Project or any part of the Project in any way it sees fit and commence a new procurement process in relation to the Project on a similar or different basis to that outlined in these Guidelines, having regard to probity matters, if any;
- z. require the Proponent and any Consortium Member to enter into a Tender Process Deed;
- aa. require the Proponent or any Consortium Member to provide a performance security or guarantee at the time the Proponent submits a Financial Value Bid;
- bb. otherwise take any such other action as it considers appropriate in relation to the Tender Round; and
- cc. not attribute any reasons for any actions or decisions taken, including in respect of the exercise of any or all of the abovementioned rights and discretions.

5.31 Financial Value Bids binding

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

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

5.32 Consumer Trustee right to impose additional requirements

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

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

5.33 Bid evaluation

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

5.34 Recommended Bids and Selected Proponents

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

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

5.35 Material change in circumstances

The Proponent must notify the Consumer Trustee promptly in writing:

- a. of any event which may affect or have an impact on the financial position or capacity of the Proponent or any Consortium Member or the ability of the Proponent or Consortium Member to continue to participate in the Tender Round or comply with the Tender Conditions;
- b. of any circumstances which may affect the completeness, accuracy, adequacy or correctness of any of the information provided in, or in connection with, the Bid or the Proponent's (or any Consortium Member's) participation in the Tender Round; or
- c. if, after lodgement of its Bid, there is a change in control (as that term is defined in Section 9 of the *Corporations Act 2001* (Cth)) of the Proponent or any Consortium Member.

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

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

5.36 No obligation to enter into contract or grant Access Rights

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

5.37 Debriefing and disclosure

The Consumer Trustee, at its discretion, may (but is under no obligation to) debrief any unsuccessful Proponent (and any Consortium Member) as to the Consumer Trustee's evaluation of that Proponent's Bid. Any such debriefing will focus solely on the Proponent's Bid and will not reveal any information that could compromise the Tender Round or any future Tender Round (including any participants therein). The Consumer Trustee is under no obligation to give any reason for the non-acceptance of that Proponent's Bid.

The Consumer Trustee is under no obligation to disclose to any Proponent (or any Consortium Member) or any of their respective Associates, any discussions or negotiations the Consumer Trustee has had with any other Proponent or any amendments, additions or other changes the Consumer Trustee has allowed any other Proponent to make to its Bid, and is not obliged to enter into similar discussions or negotiations with the Proponent or allow or require amendments, additions or changes to be made to its Bid.

5.38 Supplements and Addenda

Each Proponent (including each Consortium Member) agrees that:

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

5.39 Price basis, English language and metric units

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

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

5.40 Severability

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

5.41 Communications

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

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

5.42 Probity and confidentiality obligations

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

5.43 Governing Law

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



6 Regulatory context

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

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

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

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

Regulatory consideration	Relevance to Tender Rounds
NSW Electricity Infrastructure Roadmap	The NSW Government’s plan to transform the NSW electricity sector by supporting private investment in renewable energy projects by 2030.
Key entities under the NSW Electricity Infrastructure Roadmap	Different entities perform different functions under the NSW Electricity Infrastructure Roadmap. The roles of different entities have been set out in these Guidelines.
EII Act	The <i>Electricity Infrastructure Investment Act 2020 (NSW)</i> , which enables the NSW Electricity Infrastructure Roadmap and underpins the competitive tender process and key regulatory entities. Where relevant the EII Act has been referred to in these Guidelines.
EII Regulation	Regulations made by the NSW Government create an additional set of requirements on how the Consumer Trustee conducts Tender Rounds. Where relevant these regulations have been referred to in these Guidelines.
IIO Report	Provides a range of highly relevant information, including the schedule and size of LTESA tenders. The IIO Report identifies what is expected to be required to best meet the long-term financial interests of NSW electricity customers.
Tender Rules	A gazetted document that sets out how the Consumer Trustee will conduct Tender Rounds in respect of the award of LTESAs and granting of SW REZ Access Rights.
NSW Renewable Energy Sector Board Plan	Describes a vision, developed by an independent board for the development of the NSW renewable energy sector. These Guidelines summarise the core requirements of the Sector Board Plan relevant for the Tender Round. Proponents are encouraged to familiarise themselves with the broader objectives of the Sector Board .
Risk Management Framework	A risk governance document created by the Consumer Trustee, approved by the AER and required under section 51 of the EII Act. The Risk Management Framework protects the financial interests of NSW electricity customers in connection with the risks associated with LTESAs. Aspects of the Risk Management Framework relevant to the Tender Round have been summarised in these Guidelines.
First Nations Guidelines	As per the EII Act, the Consumer Trustee is to take the First Nations Guidelines into account when exercising the Consumer Trustee’s functions under concerning LTESAs.
South West REZ Access Scheme Declaration	Renewable Energy Zone (South West) Access Scheme Order under the EII Act made by the Minister for Energy. This Order operationalises the terms and conditions of the SW REZ Access Scheme, which sets out how generation and storage projects can be granted SW REZ Access Rights to planned and new network infrastructure within the SW REZ and is the primary statutory instrument for the SW REZ Access Scheme.

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



6.1 NSW Electricity Infrastructure Roadmap

The Roadmap⁵³ is the NSW Government's plan to transform the NSW electricity sector into one that is clean, affordable and reliable.

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

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

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

⁵³ [NSW Electricity Infrastructure Roadmap Virtual Engagement Room](#)

6.2 Entities under the Roadmap

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

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

6.2.1 Consumer Trustee

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

- Develop and release the IIO Report every two years (and as soon as practicable after being directed by the Minister to conduct a competitive tender for LTESAs for firming infrastructure), mapped to a development pathway (over a 20-year horizon) for electricity infrastructure and a 10-year plan for LTESA competitive tenders.⁵⁴
- Conduct competitive tenders for LTESAs in accordance with regulations and the gazetted Tender Rules.⁵⁵



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

The Consumer Trustee also has a key function to consider the Infrastructure Planner's recommendations in relation to Access Rights Network infrastructure projects and either recommend the Minister give a direction to the Network Operator for an Access Rights Network infrastructure project, or authorise the Network Operator to carry out an Access Rights Network infrastructure project, before it is built and Projects awarded Access Rights can connect to it.

6.2.2 Infrastructure Planner

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

As the Infrastructure Planner, EnergyCo is responsible for ensuring that new network infrastructure is developed to connect a REZ to the existing grid. The Infrastructure Planner assesses and makes recommendations to the Consumer Trustee about Access Rights Network infrastructure projects required for a REZ.

To ensure that new network infrastructure is developed to connect the REZ to the existing grid, EnergyCo will lead the delivery of the Transmission Projects that include running a competitive tender process to appoint a Network Operator to design, build, finance, operate and maintain the Access Rights Network.

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

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

EnergyCo may also conduct an application process for the granting of Access Rights in a REZ, and has enacted this for its current CWO REZ Application Process.

⁵⁴ Section 45 of the EII Act

⁵⁵ Section 47 of the EII Act.

6.2.3 Scheme Financial Vehicle (SFV)

The SFV is the counterparty to any LTESAs and Access Payment Deeds.⁵⁶

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

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

6.2.4 Financial Trustee

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

6.2.5 Regulator

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

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

- Making five-year revenue determinations for network infrastructure projects authorised by the Consumer Trustee, including the calculation of the prudent, efficient and reasonable capital costs of these projects.
- Making annual contribution determinations regarding the Electricity Infrastructure Fund.
- Approving a risk management framework developed by the Consumer Trustee.
- Reviewing the Consumer Trustee's Tender Rules applicable to competitive tenders under the EII Act.
- Certain functions related to the NSW Renewable Energy Sector Plan.
- Any other regulatory functions in the EII Act not otherwise conferred on another person/entity from time to time.

6.2.6 NSW Renewable Energy Sector Board

The [NSW Renewable Energy Sector Board](#) (Sector Board) was appointed by the Minister for Energy and one of its functions is to prepare a plan for the NSW renewable energy sector (Sector Board Plan).⁵⁷

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

⁵⁶ Section 46 of the EII Act.

⁵⁷ Section 7(4) of the EII Act.

6.3 Electricity Infrastructure Investment Act 2020 (NSW)

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

Its primary objectives include:

- Improving affordability, reliability, security and sustainability of electricity supply in NSW.
- Co-ordinating investment in new generation, storage and network infrastructure in NSW, and to encourage such investment by reducing risk for investors.
- Supporting economic development, including by creating employment, investing in education and promoting local industry.⁵⁸

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

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

Relevance to Tender Rounds

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

- Content of the Tender Rules.⁵⁹
- How the Consumer Trustee can make recommendations to the SFV about LTESAs.⁶⁰
- Development of a risk management framework to protect the long- term financial interests of NSW electricity customers in connection with the risks associated with LTESAs.⁶¹

In relation to Access Rights, it establishes how the Consumer Trustee is to determine the fees payable to the SFV for participation in an Access Scheme.⁶² Specifically, the Consumer Trustee must consider the following principles:

- Maximising financial value for NSW electricity customers.
- Recovering the cost of the operation of the Access Scheme.
- Optimal use of the existing and planned infrastructure in the REZ.
- Other principles prescribed by the EII Regulation (which currently prescribe transparency in total determined or expected fees payable under the access scheme for participants).

⁵⁸ Section 3(1) of the EII Act.

⁵⁹ Section 47(5) of the EII Act.

⁶⁰ Section 48 of the EII Act.

⁶¹ Section 51 of the EII Act.

⁶² Section 26 of the EII Act.

6.4 Electricity Infrastructure Investment Regulation 2021 (NSW)

Outline

The *Electricity Infrastructure Investment Regulation 2021 (NSW)* (EII Regulation) deals with matters under the EII Act, including the:

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

Relevance to Tender Rounds

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

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

6.5 IIO Reports

The EII Act requires that the Consumer Trustee prepare a report every two years (and more frequently in certain circumstances) about the Infrastructure Investment Objectives. The last IIO report was published in December 2023, which can be found [here](#).

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

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

Each IIO report must contain a:

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

The EII Regulation sets out additional items that the report must contain and matters that the Consumer Trustee must have regard to in preparing the IIO report.

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

The inaugural IIO Report was released on 7 December 2021 and set out a development pathway and ten-year plans for generation and long-duration storage infrastructure. The latest IIO Report was released on 21 December 2023.

6.6 Tender Rules

Under section 47(3) of the EII Act and clause 42A(2)(a) of the EII Regulation, a Tender Round must be carried out in accordance with the Tender Rules. The intent of the Tender Rules is to provide the framework and rules for engagement by Proponents on the structure and design of Tender Rounds, specifically in respect of the matters outlined below.

Relevance to Tender Rounds

The Consumer Trustee is required to make a set of Tender Rules.⁶³ For Tender Rounds involving LTESAs, the Tender Rules must deal with the:

- Eligibility criteria for making a Bid.
- Notification of the opening of the Tender Round.
- Procedure for making a Bid, including the information required to be included in a Bid.
- Fee payable for making a Bid and requirements for bonds or other security.
- Assessment of a Bid by the Consumer Trustee.
- Other matters the Consumer Trustee considers necessary.
- Matters prescribed by the EII Regulation.⁶⁴

6.7 The NSW Renewable Energy Sector Board Plan

Outline

Under the EII Act, one of the Sector Board's key functions is to prepare and provide to the Minister a plan for the NSW renewable energy sector, in particular in relation to the operation of the sector and the manufacture and construction of infrastructure in the sector.⁶⁵ Once approved by the Minister upon recommendation by the IPART, the Sector Board Plan must be published on the OECC website and takes effect on the day it is published.⁶⁶

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

- Maximising use of locally produced and supplied goods and services.
- Maximising employment of suitable qualified workers.
- Fostering opportunities for apprentices and trainees.
- Achieve other objectives prescribed by regulations (which at present prescribe protecting the financial interests of NSW electricity customers and being consistent with Australia's international trade obligations).⁶⁷

Relevance to Tender Rounds

The Consumer Trustee must consider the Sector Board Plan when exercising its functions, including conducting the Tender Round, assessing and making recommendations on selected Projects.⁶⁸

⁶³ Section 47(5) of the EII Act and clause 42A(2)(a) of the EII Regulation.

⁶⁴ Sections 47(5) of the EII Act.

⁶⁵ Section 7(4)(a) of the EII Act.

⁶⁶ Section 8(5) of the EII Act.

⁶⁷ Section 8(1) of the EII Act.

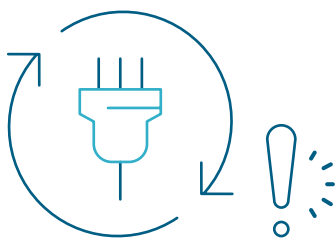
⁶⁸ Section 9(1) of the EII Act.

6.8 First Nations Guidelines

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

Relevance to Tender Round

The Consumer Trustee must consider the First Nations Guidelines when exercising its functions, including conducting the Tender Round, assessing and making recommendations on selected Projects.⁶⁹



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

6.9 Risk Management Framework

Outline

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

- The five specific risks related to LTESAs that are covered by the Risk Management Framework, being:
 - Benefit of LTES agreements.
 - Electricity Infrastructure Fund liquidity.
 - Contribution volatility.
 - Contracts market liquidity.
 - Prudent cash balance.
- Specific risks to be considered by the Consumer Trustee as may be set out in the EII Regulations from time to time.
- The requirements in the EII Act for the Consumer Trustee to act in the long-term financial interests of NSW electricity customers.

The Risk Management Framework:

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

Relevance to Tender Rounds

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

⁶⁹ Section 4(4) of the EII Act. Please see [MC4](#) and [MC7](#) for further details on how this will be assessed in the IAPP.

6.10 REZ and Access Scheme Declarations

6.10.1 REZ Declarations

Under the EII Act, the Minister may declare a REZ comprising (REZ Declaration):⁷⁰

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

The Minister may amend a REZ Declaration from time to time to expand the specified geographical area of the REZ, increase the intended network capacity, specify additional generation, storage and network infrastructure, provide further details and specifications or correct a minor error.⁷¹

6.10.2 Access Scheme Declaration

The Minister may declare the Access Scheme that is to apply in a REZ or part of a REZ (Access Scheme Declaration).⁷² An Access Scheme Declaration must be consistent with the objectives of the EII Act, and may also specify the following:

- The person or body who is to administer the Access Scheme.
- How Access Rights are to be conferred on participants.
- The terms and conditions of Access Rights.
- The functions of the AER in relation to the Access Scheme.
- The rights and liabilities of the SFV in relation to the Access Scheme.
- Other matters prescribed by the EII Regulation.⁷³

The Access Scheme Declaration entitled “Renewable Energy Zone (South West) Access Scheme Order” was declared by the Minister under the EII Act, section 24(1), on 4 April 2024 and [published in the NSW Government Gazette on 12 April 2024](#). This declaration sets out how generation and storage projects can be granted Access Rights to new network infrastructure within the SW REZ.

⁷⁰ Section 19(1) of the EII Act.

⁷¹ Section 22(1) of the EII Act.

⁷² Section 24(1) of the EII Act.

⁷³ Sections 24(3) and (5) of the EII Act.

Project Documents



The proforma
Project Documents
can be found here.



Project Documents

The proforma [Project Documents can be found here](#) and contain:

To be executed as a deed poll for the benefit of the Consumer Trustee and SFV (for any product) – at **Project Bid submission** stage:

- Tender Process Deed - Single Proponent, or
- Tender Process Deed - Consortium

LDS LTESAs

To be entered into with SFV (for LDS LTESAs) – at **Award** stage:

- Project Development Agreement (PDA) for LDS Projects **without** an Access Right
- Long-term Energy Service Agreement (LTESA) for LDS Projects **without** an Access Right
- Tripartite Deed (PDA and LTESA) for LDS Projects

Note: For Projects bidding for both an LDS LTESA **and** an Access Right that are successful for Financial Value Bid stage, an updated version of the PDA and LTESA for LDS Projects will be provided prior to the opening of Financial Value Bids.

Access Rights

To be entered into with SFV (for Access Rights) – at **Award** stage:

- Access Payment Deed (any technology) – required for all Access Rights Projects
- Tripartite Deed (Access Payment Deed)

To be entered into with EnergyCo (for Access Rights) – at **Award** stage:

- Access Project Development Agreement (Access PDA) – required for all Access Rights Projects
- Tripartite Deed (Access PDA)

Note: Consultation feedback is requested from Proponents on the Access Payment Deed and the Access Project Development Agreement by 19 June 5.00pm, to be sent to tender5@aemoservices.com.au. An updated version of these agreements will be published prior to the opening of Financial Value Bids.

Glossary



Definitions

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

Term	Definition
Access Fee	A fee paid by an Access Right Holder in return for an Access Right.
Access Fee Determination	A statutory decision by the Consumer Trustee, setting out Access Fees for each individual Project and how they may be adjusted for certain events.
Access Payment Deed	The agreement between the SFV and a Selected Proponent containing obligations relating to the payment of the Access Fee and the provision of security.
Access PDA	The agreement between the Infrastructure Planner and a Selected Proponent that contains obligations relating to the development and operation of a Project, articulates the Access Right terms and contains commitments related to social licence.
Access Right	Access Rights allocated under a declared Access Scheme that authorise access to, and use of, the Access Rights Network.
Access Right Agreements	The Access PDA and the Access Payment Deed.
Access Right Holder	The person who holds an Access Right granted under the relevant Access Scheme Declaration.
Access Right Maximum Capacity	As defined in Table 5 of these Guidelines.
Access Rights Network	The network infrastructure to which the Access Scheme applies.
Access Rights Supplement	Any document issued by the Consumer Trustee on or after the date of these Guidelines and labelled as an "Access Rights Supplement" to these Guidelines.
Access Scheme	An access scheme declared by the Minister under EII Act, section 24, to apply in a renewable energy zone or part of a renewable energy zone.
Access Scheme Declaration	As defined in Section 6.10.2.
Addendum	Any document issued by the Consumer Trustee after the date of these Guidelines and labelled as an "Addendum" to these Guidelines; collectively known as "Addenda".
AEMO	Australian Energy Market Operator Limited (ABN 94 072 010 327).
AEMO Services	AEMO Services Limited (ABN 59 651 198 364).
AER	Australian Energy Regulator.
Aggregate Maximum Capacity Cap	As defined in the relevant Access Scheme Declaration.
Alternative Bid	An Alternative Financial Value Bid.
Alternative Financial Value Bid	The document submitted by a Proponent following a Project Bid, forming part of a Financial Value Bid, as described in Section 3.1.9, including any Returnable Schedules, together with any additional information submitted by the Proponent.

Term	Definition
Approval	Any approvals, authorisations, permits, consents, licences, registrations, determinations, certificates, permissions, exemptions and the like from any Authority or under any Law required to be issued, obtained or satisfied in connection with the performance by the Selected Proponent of its obligations under the Project Documents.
Annuity Cap	As defined in Section 2.1 of these Guidelines.
Assessment Criteria	Eligibility Criteria and Merit Criteria.
Assisting Entities	<p>Assisting Entities means:</p> <ul style="list-style-type: none"> (a) AEMO; (b) EnergyCo; (c) Transgrid (the NSW jurisdictional transmission planner); (d) The Network Operator; (e) The Scheme Financial Vehicle; <p>The Consumer Trustee's Associates, including, without limitation, King & Wood Mallesons, Ernst & Young, GHD, and other consultants advised from time to time by the Consumer Trustee on its website or by direct communication to Proponents, and other legal, technical or commercial advisors from which the Consumer Trustee seeks support in relation to a Tender Round.</p>
Associate	<p>In relation to a person, any Related Body Corporate of that person or any officer, employee, agent, contractor, consultant, nominee, licensee, or adviser of that person or that Related Body Corporate and:</p> <ul style="list-style-type: none"> • in the case of a Proponent, includes: <ul style="list-style-type: none"> – each Consortium Member and any Related Body Corporate, adviser, officer, employee, agent, contractor, consultant, nominee, licensee or adviser of a Consortium Member; – any Debt or Equity Providers and any Related Body Corporate, adviser, officer, employee, agent, contractor, consultant, nominee, licensee or adviser of each Debt or Equity Provider; – to the extent they are not otherwise Consortium Members, the entities proposed to enter into the Project Documents and to form part of the corporate group in which those entities are included, – but excludes the Consumer Trustee and its Associates; and – in the case of the Consumer Trustee, EnergyCo, or the SFV, any officer, employee, agent, contractor, consultant, nominee, licensee or adviser of that entity but does not include Proponents or Consortium Members. In the context of clauses 5.5(c), 5.6, and 5.9, also includes the Commonwealth of Australia.
Authority	Any government department, local government council, government or statutory authority, body, instrumentality, minister, agency or other authority exercising administrative or regulatory functions.
Bid	Project Bid and/or Financial Value Bid submitted by Proponents in a Tender Round.
Bid Entity	The legal entity to be responsible for the Proponent's Project Bid and Financial Value Bid, bonding, and counterparty to the PDA and/or LTESA, as proposed in accordance with Eligibility Criteria 16.

Term	Definition
Bid Variable	Commercial terms of the LTESA that may be altered by the Proponent in either the Default Financial Value Bid or Alternative Financial Value Bid.
Business Day	A day other than Saturday, Sunday and any other day not taken to be a public holiday in Sydney, Australia.
Claim	Any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity) made: <ul style="list-style-type: none"> i. in connection with the Tender Round, Tender Rules, these Guidelines, the Project Documents or the Project; ii. at law or in equity; or iii. for specific performance, restitution, payment of money (including damages), an extension of time or any other form of relief.
Closing Date and Time	The Financial Value Bid Closing Date and Time or the Project Bid Closing Date and Time or the Registration Closing Date and Time, as relevant.
Commercial Operations Date (COD)	In respect of a Project with an LTESA, has the meaning given to that term in the LTESA PDA, otherwise the meaning given to the term "Commercial Operations" in the Access PDA.
Community Engagement Plan	The plan to be submitted as part of a Bid in respect of EC9 and Merit Criteria 4 that complies with the requirements set out in Returnable Schedule for Merit Criteria 4.
Competing Proponent	In respect of a Proponent, any person responding to these Guidelines or participating in the Tender Round other than the Proponent.
Conflict Protocols	As defined in section 5.16 of these Guidelines.
Connection Enquiry Response	Network Service Provider's response in relation to a Project, required to be provided under set timeframes under the NER, to the connection enquiry made to connect to the distribution or transmission network.
Consortium Member	Each of the following entities (which may form part of the Proponent) in their individual capacity: <ul style="list-style-type: none"> i. sponsor(s), including each 'Proponent Consortium Member' as that term is defined in the Consortium Process Deed; ii. any special purpose vehicle or entity that is intended to be the Bid Entity; and any additional entity included in the Proponent in accordance with the process set out in the Consortium Process Deed.
Consortium Process Deed	As defined in the Tender Process Deed.
Consumer Price Index (CPI)	The Consumer Price Index as published by the Australian Bureau of Statistics.
Debt or Equity Provider	Any actual or potential provider of debt or equity funding, facilities or accommodation directly or indirectly to the Proponent in relation to the Project, including any security trustee, bond trustee, agent, underwriter, arranger, financial guarantor, bond provider or hedge counterparty however described.
Default Financial Value Bid	The document submitted by a Proponent following a Project Bid, being the essential part of a Financial Value Bid, as further described in Section 3.1.9 of these Guidelines including any Returnable Schedules, together with any additional information submitted by the Proponent.

Term	Definition
Development Approval	A 'development approval' pursuant to the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
Disclosed Information	<p>The following information (of whatever nature, including written, graphical, electronic, oral or in any other form) which is disclosed to, or otherwise obtained by or on behalf of, the Proponent or Consortium Member or any respective Associate in connection with the Project or this Tender Round, including:</p> <ul style="list-style-type: none"> • these Guidelines and any information disclosed pursuant to these Guidelines (and other documents released as part of the Tender Round) as part of the Tender Round; • any oral or written advice, representations or information given by or on behalf of the Network Operator, Infrastructure Planner, the Consumer Trustee or any of their Associates during this Tender Round; • all material contained in any data room used by the Infrastructure Planner or Consumer Trustee and the Proponents; and • each Bid to the extent that it contains or would reveal any of the information referred to in the paragraphs above, any other information which the Proponent, Consortium Member or any respective Associate knows or ought reasonably to know is confidential to the Network Operator, Infrastructure Planner, Consumer Trustee or any of their Associates or should be treated as such.
EII Act	<i>Electricity Infrastructure Investment Act 2020</i> (NSW).
EII Regulation	<i>Electricity Infrastructure Investment Regulation 2021</i> (NSW).
Eligibility Criteria or EC	Proponent Eligibility Criteria and Project Eligibility Criteria.
EnergyCo	The Energy Corporation of NSW
Escalation	As defined in section 2.1 of these Guidelines.
Final Project Documents	Each final Project Document and other contract documentation entered into or to be entered into by the Selected Proponent and the relevant counterparties including the SFV and EnergyCo among others (as applicable) in order to document the terms and conditions for undertaking the Project.
Finance and Construction Criteria	The Project commitment criteria named as the finance criteria and the construction criteria on the generator information page being the information resource established, maintained and published by AEMO under the NER, rule 3.7F, from time to time.
Financial Close	In respect of a Project, has the meaning given to that term in the relevant Project Development Agreement.
Financial Trustee	The 'financial trustee' appointed by the Consumer Trustee to administer the SFV pursuant to section 61 of the EII Act. The entity appointed as financial trustee is Equity Trustees Limited.
Financial Value Assessment	The assessment methodology to be used by the Consumer Trustee for assessment of Financial Value Assessments.
Financial Value Bid	The document submitted by a Proponent following a Project Bid, comprising a Default Financial Value Bid and/or an Alternative Bid as described in Section 3.1.9, including any Returnable Schedules and the Basis of Bid (as applicable), together with any additional information submitted by the Proponent.

Term	Definition
Financial Value Bid Closing Date and Time	As defined under Tender Round 5 details.
Financial Value Shortlist	Selected shortlist of Financial Value Bids to be progressed to Portfolio Assessment.
First Nations Guidelines	Set of guidelines that the Minister has issued about consultation and negotiation with the local Aboriginal community in relation to relevant projects for the purposes of increasing employment and income opportunities for the local Aboriginal community under section 4 of the EII Act.
Forecast Curtailment	The forecast curtailment on the Access Rights Network or a network element comprising part of the Access Rights Network (within the meaning of the NER) (as the case may be) determined by the Infrastructure Planner in accordance with the relevant Access Scheme Declaration.
Generation LTESA	A financial derivative contract that provides an LTES Operator with a series of options to access a fixed price, cash settled swap under the terms of the agreement.
Hybrid Project	As defined in Section 3.1.7 of these Guidelines.
IIO Report	Infrastructure Investment Objective Report prepared by the Consumer Trustee under section 45(2) of the EII Act.
Industry and Aboriginal Participation Plan (IAPP)	The plan to be submitted as part of a Bid in respect of Eligibility Criteria 9 and Merit Criteria 7 that complies with the requirements set out in the Returnable Schedule for Merit Criteria 7.
Infrastructure Investment Objectives	The 'infrastructure investment objectives' as defined in section 44 of the EII Act.
Infrastructure Planner	The 'infrastructure planner' appointed in respect of a REZ or part of a REZ (as applicable) pursuant to section 63 of the EII Act, being Energy Corporation of New South Wales (ABN 13 495 767 706).
Initial Aggregate Maximum Capacity Cap	The initial cap on the aggregate maximum capacity that can be allocated to Projects under an Access Scheme. The Initial Aggregate Maximum Capacity Cap for the SW REZ is 3.98GW.
Initial Allocation	Means the maximum initial grant of Access Rights under the Access Scheme.
Initial Network Element Capacity Cap	The maximum capacity that can be awarded to Projects connecting to a network element within an Access Rights Network. For this Tender Round, the cap is 1,270 MW in respect of the Buronga Network Elements.
Initial Security	In respect of a Bid, has the meaning given to that term in the Project Development Agreement.

Term	Definition
Intellectual Property Rights	<p>All existing and future rights in the nature of intellectual property or industrial property (within the meaning of the term 'industrial property' in Article 1 of the Paris Convention for the Protection of Industrial Property) throughout the world, including:</p> <ul style="list-style-type: none"> • copyright; • trade and service marks (whether registered or unregistered); • designs (whether registered or unregistered); • patents and inventions (whether or not patented or patentable); • internet domain names; • trade, business or company names; and • confidential information and trade secrets, <p>whether tangible or intangible, which incorporates, embodies or is based on any of the things referred to in the paragraphs above.</p>
Late Bids	As defined in section 3.1.1 of these Guidelines.
Law	Commonwealth, state, or local legislation, judicial, administrative, or regulatory decrees, judgments, awards or orders and all common laws and principles of equity and, for the avoidance of doubt, includes any Regulatory Instrument.
LDS	Long duration storage.
LDS LTESA	A financial derivative contract that provides an LTES Operator with a series of options to access a variable annuity payment. If the option is exercised, the annuity payment will be in the form of a top up to net operational revenues achieved by the Project.
Liability	<p>Any loss, cost, liability or expense whether:</p> <ol style="list-style-type: none"> a. arising from or in connection with any proceeding or Claim or not; b. liquidated or not; c. legal or equitable; d. present, prospective or contingent; or e. owed, incurred or imposed by or to or on account of or for the account of any person alone or severally or jointly with another or others.
LTESA	Long-term Energy Service Agreement.
LTESA PDA	The agreement between the Scheme Financial Vehicle and a Selected Proponent containing obligations on the LTES Operator to achieve Financial Close, construct and commission the Project, and comply with social license commitments (where applicable).
LTES Operator	Party responsible for the operation and management of generation, firming infrastructure or long duration storage facility in connection with a LTESA.
Maximum Capacity	The maximum sent out generation in MW that an approved Project is authorised to send out under their Access Right. The Maximum Capacity for a capacity period is specified in the Access Rights Register.
Merit Criteria (MC)	Merit Criteria as set out in Section 4.2 of these Guidelines.

Term	Definition
Minimum Viable Project Size	As defined in section 3.1.5 of these Guidelines.
Minister	NSW Minister for Energy.
NEL	The National Electricity Law, set out in the schedule to the <i>National Electricity (South Australia) Act 1996 (SA)</i> as it applies in NSW.
NEM	National Electricity Market.
NER	The National Electricity Rules made under the NEL, as it is applied in NSW.
Net Operational Revenue	As defined in section 2.1 of these Guidelines.
Net Revenue Threshold	As defined in section 2.1 of these Guidelines.
Network Operator	The network operator authorised by the Consumer Trustee to carry out the development, construction and operation of the Access Rights Network under section 31(1)(b) of the EII Act.
Non-Compliant	In relation to a Bid means a response that is not substantially complete, or which does not substantially address each of the requirements set out in these Guidelines or the Tender Rules, or which addresses the requirements set out in these Guidelines or the Tender Rules but not in the manner contemplated by these Guidelines.
NSP	Network Service Provider.
NSW Electricity Infrastructure Roadmap	As defined in section 6 of these Guidelines.
OECC	NSW Office of Energy and Climate Change.
Online Portal	The online portal made available by the Consumer Trustee to Proponents as part of participation in the Tender Round.
Portfolio Assessment	As described in Section 3.1.11 of these Guidelines.
Portfolio Shortlist	Selected shortlist of Financial Value Bids at the conclusion of Portfolio Assessment stage.
Products	The products being tendered under this Tender Round.
Project	A physical electricity generation or storage facility built in respect of which an LTESA or Access Right is being sought by the Proponent, including any proposed supporting network remediation and connection assets.
Project Assessment	The assessment methodology to be used by the Consumer Trustee to assess and shortlist Bids.
Project Bid	The document submitted by a Proponent in relation to the Project, including any Returnable Schedules and the Basis of Bid (as applicable), together with any additional information submitted by the Proponent.
Project Bid Closing Date and Time	As defined under Tender Round 5 details.
Project Development Agreement (PDA)	Means the Access PDA and/or the LTESA PDA.

Term	Definition
Project Document	<p>The LTESA PDA, LTESA and (where applicable) the Access Payment Deed and Access PDA, together with any other documents that are:</p> <ul style="list-style-type: none"> • required or contemplated under the LTESA PDA and/or applicable LTESA; or • specified by the Consumer Trustee as required to be entered into by the SFV, the Proponent and, if relevant, others at or around the same time as the LTESA PDA and/or the applicable LTESA. <p>The full suite of Project Documents will be determined on a case-by-case basis for each Proponent, having regard to the relevant Bid and specific Project arrangements.</p>
Project Eligibility Criteria	Eligibility Criteria as set out in Section 4.1.2 of these Guidelines.
Project Shortlist	Selected shortlist to progress to the Financial Value Bid stage, based on assessment against the Project Merit Criteria.
Proponent	Any person (who alone) or persons (who together, including Consortium Members), submit, or intend to submit, a Project Bid and Financial Value Bid, including a shortlisted Proponent and a Selected Proponent.
Proponent Eligibility Criteria	Eligibility Criteria as set out in Section 4.1.1 of these Guidelines.
Q&A Process	The question and answer process in respect of the Tender Round described in Section 3.1.1 of these Guidelines.
Recommended Bid	As defined in Section 3.2 of these Guidelines.
Registration Closing Date and Time	As defined under Tender Round 5 details.
Regulatory Instrument	<ul style="list-style-type: none"> • the NEL and the NER; • the EII Act and EII Regulations; • any other Law that regulates the electricity industry in NSW; and • any relevant licence, Approval, code, instruction, direction, condition or orders of an Authority (whether formal or informal) that regulates a person's activities in respect of the electricity industry.
Related Body Corporate	Has the meaning given in the <i>Corporations Act 2001</i> (Cth), but on the basis that 'subsidiary' means another entity which is a subsidiary of the first entity within the meaning of the <i>Corporations Act 2001</i> (Cth), provided that a trust may be a subsidiary (and an entity may be a subsidiary of a trust) if it would have been a subsidiary under this definition if that trust were a body corporate. For these purposes, a unit or other beneficial interest in a trust is to be regarded as a share.
Reliability Standard	As defined in the EII Act.
Returnable Schedule	Schedules to be provided by the Proponent as part of the submission of a Bid as referred to in the Tender Guidelines.
REZ	A 'renewable energy zone' under section 23 of the EII Act.
REZ Declaration	As defined in Section 6.10.1 of these Guidelines.
REZ Scheme Administrator	The person or body specified in an Access Scheme Declaration as declared by the Minister pursuant to section 24(5)(a) of the EII Act to administer an Access Scheme, being EnergyCo.

Term	Definition
Risk Management Framework	The 'risk management framework' developed by the Consumer Trustee pursuant to section 51 of the EII Act.
Scheme Financial Vehicle (SFV)	The counterparty to the LTESAs, LTESA PDAs and Access Payment Deeds, responsible for administering payments and, where applicable, collecting Access Fees for distribution to relevant entities, pursuant to section 62 of the EII Act.
SEARs	Secretary's Environmental Assessment Requirements
Sector Board	The NSW Renewable Energy Sector Board.
Sector Board Plan	The NSW Renewable Energy Sector Board Plan prepared by the Sector Board pursuant to section 7(4)(a) of the EII Act (published September 2022), as further described in Section 6.8 of these Guidelines.
Security for Process Bond	In respect of a Bid, has the meaning given to that term in the Tender Process Deed.
Selected Proponent	In respect of a Proponent, any person whose Project is selected as set out in Section 3.3 of these Guidelines to be awarded the relevant Project Documents.
SW	South-West
SW REZ	South-West Renewable Energy Zone.
SW REZ Access Right	The Access Rights allocated under the SW REZ Access Scheme and in accordance with the SW REZ Access Scheme Declaration that authorises access to, and use of, the Access Rights Network in the SW REZ.
SW REZ Access Scheme	An access scheme declared by the Minister under section 24 of the EII Act, to apply in the SW REZ.
SW REZ Access Scheme Declaration	The declaration by the Minister that the SW REZ Access Scheme is to apply in the SW REZ dated 4 April 2024, and published in the Gazette on 12 April 2024.
SW REZ AR References	As defined in Section 1 of these Guidelines.
Target Network Element Curtailment Level (TNECL)	A limit on Forecast Curtailment calculated under an Access Scheme for specified network elements on the Access Rights Network.
Target Transmission Curtailment Level (TTCL)	The TTCL is a limit on Forecast Curtailment calculated under an Access Scheme for the Access Rights Network.
Tender Commencement Date	The date of which the Tender Round is opened.
Tender Conditions	The terms and conditions set out in Section 5 of these Guidelines and such further terms and conditions that are otherwise imposed by the Consumer Trustee in respect of the Tender Round.
Tender Documentation	The documentation issued by the Consumer Trustee in respect of the Tender Round, including: <ul style="list-style-type: none"> i. the Tender Rules; ii. these Guidelines, including any Access Rights Supplement; iii. Tender Round market briefing materials; and iv. the Tender Process Deed executed by the relevant Proponent; but does not include the Project Documents and any other contract documents issued in conjunction with the Tender Documentation listed above.

Term	Definition
Tender Guidelines or Guidelines	This document, including its Tender Round details (before the table of contents), schedules, attachments and appendices, any Addenda or any Access Rights Supplement.
Tender Process Deed	A legally binding deed, setting out the terms under which Proponents participate in the Tender Round.
Tender Round	The Tender Round as specified in these Guidelines, commencing date notified by the Consumer Trustee on the Consumer Trustee's website and concluding when the Consumer Trustee has notified each Proponent that the process has concluded.
Tender Rules	Tender rules, made by the Consumer Trustee under section 47(5) of the EII Act, and under regulation 42A(2)(a) of the EII Regulation, that sets out how the Consumer Trustee will conduct Tender Rounds in respect of the award of LTESAs and granting of Access Rights.
Total Project Contract Value	The summation of all the costs that the Proponent has to pay to deliver the Project exclusive of GST.
Validity Period	The validity period of the Financial Value Bid to be specified by the Consumer Trustee prior to Financial Value Bid Closing Date and Time.



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