



NSW Electricity Infrastructure Tenders

Guidelines – Tender Round 6

May 2025



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 9 May 2025. 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 its commencement 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 AEMO Services' fraud or wilful 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 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 (**NEM**), subject to the requirements of the EII Act. Further information for Proponents regarding the sharing of Proponent information and the role of relevant entities is set out in [Section 3](#), [Section 5](#) and [Section 6](#) of this document.

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Acknowledgement of Country

AEMO Services would like to acknowledge the Traditional Custodians of the land, seas and waters across Australia. We honour the wisdom of Aboriginal and Torres Strait Islander Elders past and present and embrace future generations.

We acknowledge that, wherever we work, we do so on Aboriginal and Torres Strait Islander lands. We pay respect to the world's oldest continuing culture and First Nations peoples' deep and continuing connection to Country; and hope that our work can benefit both people and Country.



Welcome to Tender Round 6

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)*.

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.

The Consumer Trustee uses its published Infrastructure Investment Objective (IIO) Reports as a basis for conducting tenders¹. The most recent IIO Report was published in December 2023 and can be found [here](#). The Consumer Trustee acknowledges that it is intending to update the IIO Report in 2025 which will include a new long duration storage (LDS) development pathway. This is expected to include reference to the new minimum objective which was enacted in October 2024 for the construction of 28 gigawatt-hour (GWh) of LDS by 2034, which includes an additional 12 GWh on top of the 16 GWh and 2 gigawatts (GW) due by 2030, as well any risks to the delivery of existing projects and other broader risks to reliability.

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

A. Products available in this Tender Round

This Tender Round allows Proponents to bid for LDS Long-Term Energy Service Agreements (LTESAs) for Projects intending to connect to:

- existing transmission and distribution infrastructure; or
- Renewable Energy Zone (REZ) network infrastructure where the Project has been granted an Access Right.

Where a Proponent proposes to connect to REZ network infrastructure for which the Project has been granted an Access Right, the Proponent must satisfy either scenario (a) or (b) below:

- (a) the Proponent:
 - has previously been granted an Access Right for the Project as a result of a competitive tender conducted by the Consumer Trustee; and
 - the Consumer Trustee is satisfied there are exceptional circumstances; or
- (b) the Proponent:
 - has previously been granted an Access Right under an Access Scheme other than by way of a competitive tender conducted by the Consumer Trustee; and
 - the Project has not achieved the Finance and Construction Criteria.

For further information, see [Section 3.1.6](#).

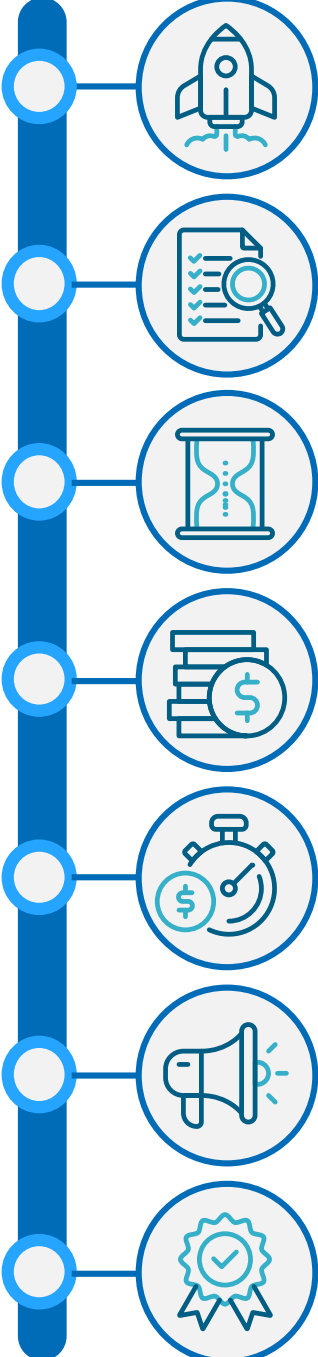







This Tender Round has an indicative tender size of 1 GW (at least 8 GWh) of LDS.

Product	Indicative tender size
LDS LTESA	1 GW and at least 8 GWh

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 the applicable requirements in the EII Act.








¹ Section 45(6) of the EII Act.

B. Important Dates*

		Step	Date
		Tender Commencement Date Registration, Project Bids and Q&A opens, documents published	9 May 2025
		Registration and Q&A Closing Date and Time	29 May 2025 5:00pm (AEST)
		Project Bid Closing Date and Time	10 June 2025 5:00pm (AEST)
		Invitation to submit Financial Value Bid	July 2025
		Financial Value Bid Closing Date and Time	August 2025
		Notify Unsuccessful Proponents	December 2025 / January 2026
		Announcement of Selected Bids	December 2025 / January 2026

*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. Key Stages in the Tender 6 Process

Tender Step	Proponent requirements	Process
<u>Stage A – Project Bid</u>	Register to participate in the Tender Round. Complete registration form .	Tender Registration
	Submit a completed Project Bid form online along with the required Returnable Schedules , including executed Tender Process Deed , Conflict of Interest Declaration and other information necessary to demonstrate the satisfaction of each of the Proponent Eligibility Criteria and Project Eligibility Criteria and to address each of the Project Merit Criteria .	Project Assessment
	 MC1 - Impact on the electricity system	
	 MC2 - Pathway to commercial operation	
	 MC3 - Organisational capacity to deliver the Project	
<u>Stage B – Financial Value Bid</u>	 MC4 - Community engagement, shared benefits and land use considerations	Financial Value Assessment , including assessing: - Long-term financial interests of NSW electricity customers - Application of other statutory requirements
	Provide Security for Process Bond	
	Project Shortlist invited to submit: <ul style="list-style-type: none"> a Default Financial Value Bid and may submit an Alternative Financial Value Bid via an online Financial Value Bid form, with corresponding Returnable Schedules to address each of the Financial Value Merit Criteria. Project Documents 	
	 MC5 - Financial value and system benefits	
	 MC6 - Commercial Departures	
<u>Stage C – Portfolio Assessment and due diligence</u>	 MC7 - Regional economic development	Portfolio Assessment and due diligence
	Due diligence may be undertaken on selected Bids at any time. Proponents may be requested to provide additional information and the Project Documents may be negotiated.	
<u>Recommendations</u>	None	Consumer Trustee risk management and statutory compliance considerations
<u>Award</u>	Execution of the relevant Project Documents	SFV awards LTESAs

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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1. Introduction

1.1 ABOUT AEMO SERVICES

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

As the NSW Consumer Trustee, AEMO Services must act independently and in the long-term financial interests of NSW electricity customers.² 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.

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: finding 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.

Tender size

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.

² Section 60(3) of the EII Act.

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.



2. LTESAs

2.1 OVERVIEW

An LDS LTESA is a financial derivative contract between an LTES Operator and the Scheme Financial Vehicle (SFV) that provides an LTES Operator with a series of options to access a variable annuity payment in the form of a top up to net operational revenues achieved by the Project, increasing project cash-flow and reducing cash-flow volatility.³

Tender Round 6 is seeking an indicative tender size of at least 1 GW (at least 8 GWh) of LDS across NSW.⁴

The Consumer Trustee has flexibility and discretion to recommend LTESAs for greater or lesser capacity than the indicative tender size, provided that the recommendations are consistent with requirements in the EII Act, including the long-term financial interests of NSW electricity customers. The volume of Projects recommended by the Consumer Trustee in Tender Round 6 may vary depending on factors that are revealed through the tender process, such as:

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

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

- Project Development Agreement (PDA) - includes obligations on the LTES Operator to construct and commission the Project to a level required to support the operation of the LTESA (with the SFV as counterparty); and
- LTESA – includes the specific terms of the derivative arrangements and ongoing operational obligations on the LTES Operator (with the SFV as counterparty).

Table 1 below provides a summary of the LDS LTESA features while Table 2 includes a list of key terms.

Table 1: Summary of LDS LTESA features

Product type	Feature
LDS LTESA	<ul style="list-style-type: none">• A series of 1-year options to enter a cash settled swap for a contract term of up to 40 years.• Available to all Projects in NSW that became committed after 14 November 2019.⁵• A repayment mechanism applies under certain circumstances.

³ Section 46(1) of the EII Act.

⁴ Tender Rounds are open to all Projects that meet the Eligibility Criteria of being in the NSW region of the NEM.

⁵ Provided that the Eligibility Criteria are met.

Table 2: LDS LTESA key terms

Key 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	The net revenue threshold bid (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 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.

2.2 CONTRACTING STRUCTURE AND PROJECT DOCUMENTS

The proforma Project Documents will be published on AEMO Services' website. Proponents will be required to enter into the Tender Process Deed at the [Project Bid submission](#) stage, and the LTESA and PDA at [award](#) stage.



3. Tender and assessment process

The tender process has been designed to ensure a fair and equitable assessment.

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 \(EC\)](#) before being competitively assessed against the [Merit Criteria \(MC\)](#).

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.



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.

3.1 TENDER PROCESS

3.1.1 Submission of Bid 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](#).

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

Tender Process Deed

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

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

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

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, capped at \$800,000 per Project. The MWh used for calculating the Security for Process Bond 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 for the Validity Period.

The Security for Process Bond must be in a form that is satisfactory to the Consumer Trustee. The requirements for the Security for Process Bond

document are set out in the Tender Process Deed. The letter of credit or guarantee should be unconditional, irrevocable and able to be drawn on demand upon presentation at any time from the date that the Proponent submits its Financial Value Bid through to the end of the Validity Period.

The Consumer Trustee can review Security for Process Bonds prior to submission.

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.

Q&A Process

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

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

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

Please note that the Consumer Trustee:

- is under no obligation to answer any question and, the Tender Conditions will govern any responses;
- will endeavour to make responses available to all Proponents (without identifying the party that submitted the relevant question);
- understands that some specific questions or responses (e.g., regarding a particular Project) are sensitive and it would be appropriate not to circulate the response. If a Proponent does not wish a question or response to be made available to others, it must identify the question as 'Commercially sensitive – not for circulation', together with an explanation of why the information is Project specific and

sensitive for the Consumer Trustee to consider. The Consumer Trustee may, in its discretion, decide whether to answer the question, including if a generic answer may still be given to all Proponents. The Consumer Trustee may seek probity advice to guide this decision.

Late Bids

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

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

In these cases, the Consumer Trustee, in its 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 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. 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, relevant entities (including the SFV) as needed to administer its functions under the EII Act.

3.1.2 Registration

Registration is the first step in the Tender 6 process and must be completed before a Project Bid may be submitted. Proponents will need to create an account via the Online Portal to register a Project.

Proponents can only register and submit one Project Bid per Project. If a Project has multiple potential configurations or designs (such as capacity or storage duration), it is a matter for the Proponent to select its preferred configuration prior to registering and submitting a Project Bid.

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

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

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

Successfully registered Proponents will be notified via the Online Portal of any changes made to the Tender 6 process.

Changes to the identity or corporate structure of a Proponent following registration will only be accepted if made in accordance with the Tender Conditions. AEMO or AEMO Services may, in its absolute discretion, impose additional requirements for such changes, including requiring the provision of further information or the execution of additional Tender Process Deeds by any relevant entities.

3.1.3 Stage A – Project Bid

Upon successfully submitting the registration form, Proponents will receive access to the Project Bid forms and Returnable Schedules needed to complete their Project Bids via the Online Portal (**Stage A**).

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.

Project Assessment

The Project Assessment applies to all compliant Project Bids. 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.

Assess Proponent and 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.⁶
- 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.⁷

Assess Project Merit Criteria 1 - 4 (MC 1 – MC 4)

- 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).

3.1.4 Stage B – Financial Value Bid

At the Financial Value Bid Stage of Tender Round 6, the Project Shortlist will be invited to submit a Default Financial Value Bid (**Stage B**). To provide flexibility and encourage commercial innovation, Proponents may submit an Alternative Financial Value Bid, in addition to a Default Financial Value Bid, where the prescribed Bid Variables are adjusted. The purpose of Stage B is to select a shortlist of Financial Value Bids to progress to Stage C.

Financial value is the primary consideration for the Consumer Trustee in recommending Bids to the SFV⁸.

The Financial Value Assessment of all Financial Value Bids, including Alternative Financial Value Bids, is conducted against [Merit Criteria 5, 6 and 7](#) (MC 5 – MC 7). The purpose of Stage B is to select a shortlist of Financial Value Bids to progress to Stage C.

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 which:

- is aligned with prescribed Default Financial Value Bid Variables;
- includes completed Returnable Schedules and marked up or compare versions of Project Documents (where relevant); and
- includes 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](#).

⁶ 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.

⁷ The Consumer Trustee may make exceptions where, in its discretion, it considers there are ground for the Project to be considered further by the Consumer Trustee – see Tender Rules 3.1.1.

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 Proponents amend the permitted Bid Variables or number of Alternative Financial Value Bids, at any stage of the tender process. In these cases, all Proponents at the relevant stage of assessment will be notified of the conditions and timeframe to prepare their Alternative Financial Value Bids.

Bid Variables

Table 3 below sets out the key commercial terms and Bid Variables that must be supplied by each Proponent's Bid. 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 3: LDS LTESA Bid Variables and key commercial terms

Key commercial term	Default Financial Value Bid	Alternative Financial Value Bid
Option Terms – MC5		
Contract term	14 years for chemical batteries. 40 years for pumped hydro. Lesser of 40 years or asset life for any other LDS technology.	Bid Variable ⁹ <i>Up to</i> 14 years for chemical batteries. <i>Up to</i> 40 years for pumped hydro. <i>Up to</i> the lesser of 40 years or asset life for any other LDS technology. ¹⁰
Exercise notice period	A minimum of 6 months.	A minimum of 6 months.
Net Revenue Threshold	Bid Variable	Bid Variable (which may be bid as a schedule of values which vary by relevant annuity start date in fixed nominal dollars or subject to CPI escalation under a cap (Bid Variable) on annual escalation).
Escalation	Annually at the lesser of Consumer Price Index (CPI) or 3%.	Annually at the lesser of Consumer Price Index (CPI) or 3% or Bid Variable .
Annuity terms (if option is exercised)		
Option period	1 year	1 year
Registered Capacity (MW)	Bid Variable	Bid Variable
Storage capacity (MWh)	Capable of at least 8 hours of dispatch at registered capacity.	Capable of at least 8 hours of dispatch at registered capacity.
Annuity Cap	Bid Variable	Bid Variable (which may be bid as a schedule of values which vary by relevant annuity start date in fixed nominal dollars or subject to CPI escalation under a cap (Bid Variable) on annual escalation).

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%).

⁹ The intent is to allow for a shorter, and therefore more competitive, contract term.

¹⁰ The Consumer Trustee will determine which asset life to accept as a basis for the contract term.

Merit Criteria 5 – Financial Value and system benefits

[Merit Criteria 5](#) will be assessed using the Bid Variables and the Project information submitted by Proponents.

[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:

- input assumptions on market developments;
- NSW coal generator retirement timing;
- weather reference years; and
- other considerations.

Scenarios are developed internally by the Consumer Trustee and are used to evaluate Financial Value Bids. High performing Bids will demonstrate value to NSW electricity customers against a range of future outcomes.

Scoring will be based on each aspect of Merit Criteria 5 and will consider different modelled scenarios.

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.

Merit Criteria 7 – Regional economic development

[Merit Criteria 7](#) assess the demonstration and/or commitments to improve regional economic development and support social value benefit realisation, including local supply chain, workforce and First Nations participation.

Treatment of future commitments related to social licence

[Merit Criteria 4](#) and [Merit Criteria 7](#) encompass social licence commitments (**SLCs**). 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 PDA. 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 SLCs in exceptional circumstances where commitments become impossible or unreasonable to meet.

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.

These may include, but are not limited to:

- the LDS minimum objectives for 2030 and 2034;
- the IIO Report and achievement of the development pathway;
- the Reliability Standard and the impact of the Project on unserved energy events;
- deliverability and contracting risk;
- cost and risk to the SFV; and
- potential for the Project to avoid or defer costs of projected regulated investment in the network.

3.1.5 Stage C – Portfolio assessment and Due Diligence

Portfolio assessment

At Stage C - Portfolio assessment and Due Diligence (**Stage C**), the Consumer Trustee will assess the cumulative impacts that may arise in consideration of the Financial Value Shortlist.

For transparency, Table 4 outlines the portfolio level adverse outcomes that may be considered in the Portfolio assessment at Stage C.

Table 4: 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 collectively give rise to adverse network effects (e.g. the Projects are connecting behind the same constraint, resulting in adverse network events such as increased curtailment).	One or more Projects may be excluded from further consideration to avoid adverse network impacts. These limits will be developed and applied at Portfolio Assessment, based on the Portfolio Shortlist.
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.	This is a risk assessment to determine whether a supplier can meet its commitments to multiple successful Projects. 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.
Counterparty concentration risk	Where several shortlisted Projects are proposed by the same Proponent, creating a material counterparty risk as determined by the Consumer Trustee.	The Consumer Trustee may 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.

Due diligence

Due diligence may be undertaken on Bids at any time during the tender. Activities may include:

- commissioning or completing relevant research, analysis and modelling to support assessment of Project or Financial Value Bids;
- contacting any relevant Government, Assisting Entity or other relevant party in relation to a Bid, Project or Proponent;
- seeking information from third parties (including relevant Government or Assisting Entities) to validate information provided by all Proponents relating to the progress of a Project and expected commissioning timeframes. This includes, but is not limited to, information from the relevant network service provider (**NSP**), AEMO connections, the relevant local council and/or the State planning authority;
- in respect of Bids included in the Financial Value Shortlist:
 - compliance by the Proponent (and the Bid Entity if different) and their direct and indirect owners with the Proponent Eligibility Criteria (and, in the case of the direct and indirect owners, as if the relevant direct or indirect owner was a Proponent or Bid Entity);
 - confirmation of continuing compliance with the Eligibility Criteria; and

- re-assessment of any or all Merit Criteria;
- a detailed assessment of Project delivery risks against the development milestones bid by the Proponent, corporate and financial capacity and viability assessment and confirmation of compliance with Foreign Investment Review Board and relevant work health and safety and other regulatory and government policy requirements; and
- enquiring into Proponent's practices regarding labour regulations, including ethical employment practices, workplace health and safety and environmental practices.

A Proponent expressly consents, and undertakes to ensure that each of its Associates consents, to AEMO disclosing information relevant to this section under section 54B of the NEL.

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

3.1.6 Eligibility of Access Right Projects and exceptional circumstances

Under the EII Regulation, where a Proponent proposes to connect to REZ network infrastructure for which the Project has been granted an Access Right, the Proponent must satisfy either scenario (a) or (b) below:

(a) the Proponent:

- has previously been granted an Access Right for the Project as a result of a competitive tender conducted by the Consumer Trustee; and
- the Consumer Trustee is satisfied there are exceptional circumstances; or

(b) the Proponent:

- has previously been granted an Access Right under an Access Scheme other than by way of a competitive tender conducted by the Consumer Trustee; and
- the Project has not achieved the Finance and Construction Criteria.

Under (a) above, the following will be recognised as exceptional circumstances (subject to other Eligibility Criteria being met):

- a Project that has received an Access Right under a separate Tender Round will be eligible to Bid for an LTESA up until the achievement of its Finance and Construction Criteria;
- 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; or
- an Access Right Holder bidding for an increase to its existing Access Right.

3.2 CONSUMER TRUSTEE RECOMMENDATION

The Consumer Trustee¹¹ exercises its discretion to determine which Bids are recommended to the SFV (**Recommended Bids**).

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.¹²

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

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

¹¹ 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.

¹² 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)).

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.

3.3 AWARD

Selected Proponents will enter into the relevant [Project Documents](#), which will be recommended by the Consumer Trustee.

3.4 ADDITIONAL CONSIDERATIONS FOR PROPONENTS

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

- Hybrid Projects; and
- staged projects.

Treatment of Hybrid Projects bidding for an LDS LTESA

Hybrid Projects are co-located LDS and generation assets, in which both assets **share a common connection point**. To be assessed as a Hybrid Project as part of [Merit Criteria 5](#), the Proponent must commit to deliver both components of the Hybrid Project (i.e., LDS and generation) under the PDA.

A Project with multiple assets of the same technology connecting to the system through a single Dedicated Connection Asset 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 as a Hybrid Project will be:

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

The generation component of a Hybrid Project will be expected to meet the Project Eligibility Criteria for generation assets as per the Tender Rules, however, the eligibility of a Hybrid Project will be assessed by the Consumer Trustee on a case-by-case basis.

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

Staged projects

Proponents with staged projects 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 a single connection point.
- 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.

The eligibility of a staged project will be determined on a case-by-case basis, however, it is expected that staged projects would bid as one Project (inclusive of all stages) within one Tender Round and that this Project meets all Eligibility Criteria.

For example, a 300 megawatt (**MW**) / 2,400 MWh battery energy storage system (**BESS**) with two stages (stage 1: 300 MW / 1,200 MWh, stage 2: addition of 1,200 MWh) that share one connection point, would bid the staged project as the full 300 MW / 2,400 MWh into a single Tender Round. The totality of the staged project would have to meet all Eligibility Criteria. If successful, the Project would execute a single set of relevant [Project Documents](#) (noting that the LTESA can only be exercised upon completion of the last stage of the staged project).



4. Assessment Criteria and Bid documentation

This section outlines the information and supporting documentation requirements for each Eligibility Criteria and Merit Criteria – collectively, the Assessment 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.



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.

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

4.1 ELIGIBILITY CRITERIA (EC)

The Proponent Eligibility Criteria and Project Eligibility Criteria are listed in Table 5 and Table 6, respectively.

The Proponent must provide information as part of its Project Bid which demonstrates that the Proponent and its Project meets all the applicable Eligibility Criteria.

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

Proponents will be required to confirm compliance with each of the Eligibility Criteria at the time of submission of a Project Bid. Proponents are required to provide evidence to support their responses to each of the Eligibility Criteria when submitting a Project Bid. Proponents and their relevant Project Bids that satisfy the Eligibility Criteria will then be assessed and score against the Stage A – Project Merit Criteria.

4.1.1 Proponent Eligibility Criteria

The requirements for the Proponent Eligibility Criteria are listed in Table 5. 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).¹³

Table 5: Proponent Eligibility Criteria¹⁴

Item	Criteria
EC14	<p>The Proponent, and the Bid Entity (if different to the Proponent) must:</p> <ol style="list-style-type: none">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; andbe one of:<ol style="list-style-type: none">an Australian entity incorporated under the <i>Corporations Act 2001</i> (Cth);a Commonwealth entity under section 10 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth);an Australian State or Territory owned (wholly or partly) corporation or a subsidiary of an Australian state or territory owned (wholly or partly) corporation; oran 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	The 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	The Proponent must not be, or become, bankrupt, insolvent, or be in, or enter into, administration, receivership or liquidation, or take advantage of any statute for the relief of insolvent debtors at any time during the Tender Round.
EC18	The 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	The 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; andapplicable Workplace Health and Safety legislation.

¹³ 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.

¹⁴ These criteria will be applied, as appropriate, to the corporate group of which the Proponent is a part and/or the Bid Entity.

Item	Criteria
EC21	The 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

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 6: Project Eligibility Criteria¹⁵

Item	Criteria
EC3	The Project has not previously been awarded an LTESA. ¹⁶
EC4	The Project consists of storage units with registered capacity that can be dispatched for at least eight hours. ¹⁷
EC5	The Project must be registered or must state in its application that it intends to register, with AEMO for the central dispatch process under the NER in relation to the NSW region of the NEM.
EC6	The 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	The Project must have received a Secretary's Environmental Assessment Requirements (SEARs) or, if SEARs do not apply, have lodged a Development Approval application under the <i>Environmental Planning and Assessment Act 1979</i> (NSW) in relation to the Project. ¹⁸
EC8	The Project must be in receipt of a connection agreement or a NSP response to a connection enquiry. ¹⁹
EC9	The 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 the State or Commonwealth government. ²⁰
EC11	The Project must not be impacted by an order served on a relevant operator prohibiting connection to the relevant network infrastructure, under section 29 of the EII Act.

¹⁵ EC1, EC2, EC12 and EC13 from the Tender Rules are not applicable to this Tender Round 6 for an LDS LTESA.

¹⁶ For a Hybrid Project, the generation asset must not have been awarded an LTESA.

¹⁷ Storage units that can dispatch for less than 8 hours continuously are only eligible if they are aggregated with other storage units so together the aggregation would meet the dispatch duration criteria. The units must be aggregated for the purposes of the National Electricity Rules. This occurs if an application for aggregation of scheduled generating units is approved by AEMO.

¹⁸ The Consumer Trustee understands that the Project 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.

¹⁹ 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.

²⁰ For this Tender Round, Government Support does not include:

- non-concessional funding provided by the Clean Energy Finance Corporation;
- market certificates (e.g., Large-scale Generation Certificates, Small-scale Technology Certificates, and Australian Carbon Credit Units) available to multiple projects;
- development-phase grants (e.g., certain ARENA funding or pumped hydro recoverable grants);
- payments for services related to REZs, network infrastructure or priority transmission projects awarded by the Energy Corporation of NSW; and
- any new policy-related funding from the NSW Government, including funding via the proposed NSW Energy Security Corporation.

4.2 MERIT CRITERIA

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

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 the 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 the Project's:

- impact on the NSW electricity system, including congestion;
- potential value towards meeting system strength requirements or potential cost of system strength remediation; and
- ability to provide essential system services.

Table 7: Components considered under MC1

What is assessed	What is required	What we are looking for
Impact on the electricity system	<ul style="list-style-type: none">• Project details relating to connection, including connection enquiry response, site map and single line diagrams.• Overview of the Project's impact on the electricity system substantiated by recent grid connection studies and/or formal documents with AEMO and/or NSPs.• Features and basic specifications of the Project relating to system services (e.g. system strength remediation solution, capability for providing inertia, black-start capability) or associated planned works that could provide a contribution to system security services, including system strength, voltage control, frequency management and system restoration, if relevant.	<ul style="list-style-type: none">• Evidence of the Project having minimal negative congestion impact on the NSW electricity network, or even having the potential to reduce congestion.• Project specifications which are more likely to have a low negative impact on system strength in NSW and low cost of remediation, or able to provide a system strength contribution. This may consider a Project's specified technical capabilities and Project's location with respect to a system strength node.• Demonstration of the Project's ability to provide essential system security benefits.



MC2 - Pathway to commercial operation

Scope: assess feasibility of the Proponent's:

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

Selected Proponents will have the target FC, COD, and other key dates scheduled as milestones in the relevant Project Documents.

Note: Proponent's target (or actual, if possible) FC and COD should be consistent in their Project Bid and Financial Value Bid.

Table 8: Components considered under MC2

What is assessed	What is required	What we are looking for
Pathway to securing approvals, network connection, and land		
Proponents are required to demonstrate their: <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; and• understanding of key development and construction risks (including mitigation strategies).	Timeline and development pathway <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.• A Project risk register that outlines key risks and relevant mitigants to achieving Financial Close and/or COD as planned• Evidence of connection approval progress, such as:<ul style="list-style-type: none">○ Connection Enquiry Response;○ Evidence of progress of the Performance Standards 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 the Project securing grid connection.	<ul style="list-style-type: none">• The ability of the Project to meet the targets identified in the IIO Report and/or in legislated targets, as evidenced through the timeline and development pathway.• 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.• 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.• 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.

What is assessed	What is required	What we are looking for
Pathway to financing and construction		
<p>Proponents are required to demonstrate their:</p> <ul style="list-style-type: none"> • progress towards reaching key development milestones, including Financial Close and COD; • financing strategy and financial capacity to support the development, construction and operation of the Project; • contracting strategy and progress in securing partners and suppliers to deliver the Project; and • alignment between the target date for achieving Financial Close and the plan to achieve COD will also be assessed. 	<p>Revenue strategy</p> <ul style="list-style-type: none"> • Revenue strategy, including (where relevant) terms and status of offtake or tolling agreements. • Product mix and use cases for the technology, including estimated revenues from certificate programs, network services, bilateral agreements, and markets (as relevant). <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; and ○ 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; ○ other activities related to procurement and construction of the Project; and/or ○ 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. • 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).



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.



MC3 - Organisational capacity to deliver the 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.

Table 9: Components considered under MC3

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> 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. Experience in engaging with relevant stakeholders required to deliver the Project, including public authorities, communities, regulatory entities and contractors). The capacity of the Proponent and its delivery partners to dedicate the necessary resources to deliver the Project on time, quality and budget. 	<p>Delivery of Project</p> <ul style="list-style-type: none"> Diagrams showing the corporate structure for the construction and operation period of the Project including the: <ul style="list-style-type: none"> direct and indirect owners of the Proponent (and Bid Entity, if different); and contracting structure and/or commercial delivery model. <p>Procurement and resources required</p> <ul style="list-style-type: none"> An overview of roles and responsibilities of the key delivery team and key resources required to deliver the Project, including consultants, advisors, and delivery partners. An overview of the procurement strategy/plan for procuring the required resources and the progress undertaken to-date. <p>Track record</p> <ul style="list-style-type: none"> An overview of the track record of the Proponent and key delivery partners involved in the Project, including relevant projects delivered and/or operated in the last five (5) years. Evidence of the track record of developing and delivering renewable energy projects and storage projects. An overview and evidence of the credentials and capabilities of the Proponent and the Project partners' key personnel responsible for the delivery of the Project. Information about whether the Proponent has previously been awarded an LTESA, noting that Proponents that have previously been awarded an LTESA which has subsequently been terminated may receive a lower score against MC3. Details of any material work, health and safety incidents that have occurred in the past five years regarding the Project, the Proponent or its contractors, including steps taken to mitigate the likelihood of future incidents. 	<ul style="list-style-type: none"> Proponent and its delivery partners demonstrate a track record in delivering comparable Projects (e.g. case studies of comparable projects, list/summary of previous projects delivered). Details of any material work, health and safety incidents that have occurred in the past five years regarding the Project, the Proponent or its contractors, including steps taken to mitigate the likelihood of future incidents. Proponent demonstrates a detailed and thorough understanding of procurement, including the skills, experience, 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 3.1.4](#) 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'.

The MC4 – Community Engagement Plan Returnable Schedule is a mandatory attachment and will become contractually binding on award.²¹

[Region-specific First Nations Guidelines](#) have been developed by a working group of local representatives and include:

- Goals and aspirations of a region.
- Outline of particular approaches to engagement.
- Priority areas of employment and income opportunities for local communities.



For guidance, Proponents can refer to the [Social Licence Market Briefing Note](#) on the Consumer Trustee's website.

²¹ Voluntary Planning Agreement commitments will be considered during assessment but only commitments above and beyond existing VPA commitments will be contractually monitored in the PDA and LTESA.

Table 10: Components considered under MC4

What is assessed	What is required	What we are looking for
<ul style="list-style-type: none"> Consistent with EC9 (community engagement plan), all Bids must submit the completed MC4 – Community Engagement Plan Returnable Schedule detailing commitments to shared benefit initiatives with local communities, including 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)²² and commitments above and beyond planning requirements. Engagement undertaken to-date and planned future engagement with relevant local communities and stakeholders including local Aboriginal communities. Level of understanding of the impact and change the Project may have on the community, including evidence of ways that community engagement has informed the design of the shared benefit initiatives. 	<ul style="list-style-type: none"> Demonstrated understanding and evidence of: <ul style="list-style-type: none"> the impact the Project will have on communities, including land use considerations; 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 initiatives 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 local need, 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. Demonstration of 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.

²² 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. Proponents will be required to complete a Financial Value Returnable Schedule.



MC5 - Financial value and system benefits

Scope: assess the financial value and system benefits 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;
- the Project's potential contribution to system reliability and its impact on the electricity system; and
- other matters the Consumer Trustee considers relevant.²³

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 and system benefits (see **Table 11**).



For guidance, Proponents can refer to the Market Briefing Notes for [Tender 1](#), [Tender 2](#), [Tender 3](#), [Tender 4](#) and [Tender 5](#).

²³ For LTESAs, clause 26(4) of the EII Regulation.

Table 11: Components considered under MC5

How we will assess it	What we are looking for
Wholesale Market Benefits	
<ul style="list-style-type: none"> Wholesale electricity market costs in NSW are forecast with and without the Project. Wholesale Market Benefits are then calculated as the reduction in wholesale electricity market costs with the addition of the Project. Several future energy market scenarios will be modelled. Scenarios are expected to be developed which consider a range of high and low average price, volatility, and reliability risk. Projects would generally be forecast to have varying Wholesale Market Benefits between these scenarios. 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 forecast market costs in early modelled years. A longer storage duration can contribute to reducing forecast market prices, particularly where scenario modelling results in events with extended high price, high volatility or risks of unserved energy.
System benefits	
<ul style="list-style-type: none"> A Project's expected ability to reduce unserved energy in NSW is estimated via system reliability modelling which may draw on methodologies utilised in AEMO's Electricity Statement of Opportunities. Modelling considers the Project's network connection location and duration in assessing their impact on unserved energy outcomes. Assessment may consider multiple scenarios, including scenarios which test the Project's ability to reduce unserved energy in NSW where all NSW coal generators have retired and/or there are lulls in variable renewable energy. These scenarios may differ to those used in assessing Wholesale Market Benefits. 	<ul style="list-style-type: none"> Projects intending to locate in strong areas of the network, or in areas of the network that are likely to enable the Project to contribute to the reduction of unserved energy. Projects with longer duration located in these areas are expected to provide higher absolute system benefits.
Net LTESA cost	
<ul style="list-style-type: none"> Revenues are modelled for each Project across a range of future electricity market scenarios. Scenarios are expected to be developed which consider a range of high and low average price, volatility and reliability risk. Projects would generally be forecast to have varying Net Operational Revenue between these scenarios, which can put upwards or downwards pressure on the forecast net LTESA cost. Payments to the SFV are calculated using the revenues modelled for each Project, and a Bid's Annuity Cap and Net Revenue Threshold. 	<ul style="list-style-type: none"> Both the Annuity Cap and Net Revenue Threshold have the potential to reduce net LTESA cost. A low Annuity Cap is expected to have greater impact on MC5 outcomes than a low Net Revenue Threshold. An early commercial operations date, such that a Project could be able to capture high Project revenues in early modelled years which could reduce annuity payments from the SFV. Any contractual commitments to exclude certain LTESA annuity periods or reduce the contract term.

Table 12: Essential Project information sought for Merit Criteria 5 assessment

Information source	Description
Project capacity and duration	Proponents are to provide: <ul style="list-style-type: none"> intended registered export capacity and import capacity, both in MW; and storage capacity, in MWh.
Degradation	Proponents are to provide: <ul style="list-style-type: none"> a degradation profile for the Project, indicating annual degradation in aggregate for all Project components; and evidence to demonstrate why the selected degradation profile is reasonable for the Project.
Expected operational guarantee life	Proponents are to provide: <ul style="list-style-type: none"> an expected operational guarantee life for the Project; and evidence to demonstrate why the expected operational guarantee life is reasonable for the Project.

The Consumer Trustee retains discretion to make standardised assumptions for certain project specifications based on technology type. This may include round-trip efficiency and the specifications summarised in Table 12.

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:

- target COD;
- locations of the Project and network connection point;
- anticipated first year where an annuity period is available; and
- 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 that is active.



MC6 - Commercial Departures

Scope: assesses the nature and extent of any commercial departures from the proforma Project Documents and the resulting risk-transfer to the SFV. The LTESA and PDA will be assessed under Merit Criteria 6. **It is strongly advised that Proponents not propose any amendments to the Project Documents as this may result in a non-acceptable Bid.** 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.

Lower scores will be allocated to Bids where the departure(s):

- changes a term that is necessary for the LTESA to qualify under the EII Act or is required for the SFV to administer the LTESA as contemplated by the EII Act and supporting regulations;
- alters consistency with other LTESAs or would bring additional administrative burden and cost to the SFV; and
- alters any schedules that were submitted in Project Bid Stage (i.e. SLCs, Project characteristics, Project milestones).

Table 13: Components considered under MC6

What is assessed	What is required	What are we looking for
Materiality of changes to risk allocation and additional administrative burden from what is set out in the proforma Project Documents.	<ul style="list-style-type: none">• Completed departure table (Returnable Schedule), including the reason for requesting each departure.• A marked-up version of the Project Documents, in both Word and PDF format, with their proposed changes.• A clean version of the Project Documents, in a form considered capable of acceptance and ready for execution by the Parties (i.e. requiring no further changes, including parties' details and execution clause, except for the details of the Bid Entity where this entity has not yet been established), in both Word and PDF format.	<ul style="list-style-type: none">• Bids that accept the proforma Project Documents with no changes to risk allocation (i.e., minimal to no departures from the proforma Project Documents).• If departures are proposed, they may be considered based on the nature and extent of each departure and its impact on:<ul style="list-style-type: none">○ the ability for the LTESA to qualify under the EII Act;○ the ability for the SFV to administer the LTESA as contemplated by the EII Act and supporting regulations;○ consistency with other LTESAs;○ administrative burden and cost to the SFV; or○ consistency with any schedules that were submitted in Project Bid Stage (i.e. SLCs, Project characteristics, Project milestones).



MC7 - Regional economic development

Proponents should refer also to [Section 3.1.4](#) of these Guidelines: 'Treatment of future commitments related to social licence'.

Scope: demonstration and/or commitments to improve regional economic development and support social value benefit realisation, including local supply chain development, employment and workforce development 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 a mandatory attachment and will become contractually binding on award.

The National Agreement on Closing the Gap

- To support holistic regional economic development and social value benefit realisation for First Nations communities, Proponents may consider providing additional First Nations commitments that support Closing the Gap targets.
- Refer to [Closing the Gap website](#) for more detail.



For guidance, Proponents can refer to the [Social Licence Market Briefing Note on the Consumer Trustee's website](#).

Commitments towards achieving baseline requirements and/or stretch goals will be assessed against **Table 14** 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 14**.
- 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.
 - 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.
 - 4 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.
 - 5 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 14:

- **Total Project Contract Value (TPCV):** the TPCV should be calculated as the sum of total development (DEVEX) expenditure, total capital expenditure (CAPEX) amount of the Project and total operational expenditure (OPEX) amount over the life of 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. LTES Operators must then report against the relevant percentage as part of ongoing SLC compliance reporting.
- **Total Project Workforce (TPW):** the total working hours that the Proponent will engage to deliver the Project. 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 14: Baseline requirements and stretch goals related to MC7²⁴

Supply chain inputs criteria	Baseline requirement			
	Wind	Solar	Pumped Hydro	Battery Storage
Before COD – development and construction phase (% of total DEVEX + 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 AUD\$)	For this Tender Round, Proponents to make a voluntary but contractually binding commitment to investment and innovation.			
Employment, skills and knowledge transfer criteria ²⁵	Baseline requirement		Stretch goal	
Learning workers ²⁶ (% of TPW)	20%		40%	
Apprentices (% of all trades positions on a Project) ²⁷	20%		30%	
First Nations participation criteria (may be met using one or a combination of the following)	Baseline requirement		Stretch goal	
First Nations subcontracting (% of TPCV)	1.5% ²⁸		10%, or the goal in the region-specific protocol under the First Nations Guidelines.	
First Nations training and workforce development (%TPCV)				
First Nations Workforce (% of TPW)				
Fair and ethical practice criteria	Baseline requirement		Stretch goal	
Employment of underrepresented groups ²⁹ (% of TPW)	15%		25%	
Environmentally sustainable procurement criteria				
Numerical minimum requirements do not apply. Proponents are required to respond to evidence requirements to demonstrate environmentally sustainable procurement. This includes: <ul style="list-style-type: none">Alignment with NSW Net Zero Plan.Alignment with NSW Circular Economy Policy Statement.Sourcing materials according to EN15804, Green Building Council's or other appropriate sustainability framework.				

²⁴ This section is based on the considerations in the NSW Renewable Energy Sector Board Plan.

²⁵ Project Operator must achieve a minimum of 70% of the '% of TPW commitment for each of the workforce categories by the end of the construction.

²⁶ Note: as defined in the NSW Renewable Energy Sector Board Plan, a 'learning worker' is a worker with or 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.

²⁷ Project Operator must achieve a minimum of 70% of the '% of total trades positions' commitment for each of the workforce categories by the end of construction.

²⁸ This is based on the considerations in the First Nations Guidelines. Proponents should align with the requirements set out in the most recent First Nations Guidelines that are available as at the Financial Value Bid Opening Date.

²⁹ 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.

Table 15: Components considered under MC7

What is assessed	What is required ³⁰	What are we looking for
<p>Local supply chain development</p> <ul style="list-style-type: none"> Local supply chain commitments (including local content, investment, innovation in the local supply chain and environmentally sustainable procurement). Strategies and evidence to support the achievement of commitments. 	<p>Completed MC7 Returnable Schedule with local supply chain commitments. Additional supporting information may include:</p> <ul style="list-style-type: none"> strategies and activities to demonstrate how targets will be achieved to deliver social value benefit realisation; strategies and/or initiatives to address barriers to entry for small and medium-sized enterprises (SMEs); and 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 that meet or exceed relevant technology baseline requirements at Table 14. Evidence of clear strategies, actions, policies, and practices to support the achievement of commitments (e.g. embedding targets and reporting requirements in downstream contracts), 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 research and development related to the technology used and support for start-ups and social enterprises related to renewable energy. Activities that promote local supply chain resilience, including “Meet the Buyer” events, mentorship of small business and local supplier forums. Evidence of the strategies, actions, policies, and practices that will support environmentally sustainable procurement throughout the supply chain on the specific Project. 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: <ul style="list-style-type: none"> 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; and demonstration of successfully meeting similar local content procurement on previous projects.

³⁰ Including Proponents for Projects that have reached Financial Close or COD.

What is assessed	What is required ³⁰	What are we looking for
Employment and workforce development <ul style="list-style-type: none"> • Employment and workforce commitments. • Strategies and evidence to support the achievement of commitments. 	<ul style="list-style-type: none"> • Commitments and strategies to upskill and develop the local workforce as part of Project delivery. • Completed MC7 Returnable Schedule with employment and workforce commitments. 	<ul style="list-style-type: none"> • Demonstration of Project commitments that meet or exceed baseline requirements at Table 14. • Outstanding strategies, supported by evidence, to support local workforce development (e.g. pre-employment training, scholarships, cross-skilling to renewables and supporting apprentices). • 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). • Strategies supported by evidence, to provide in-work career progression development opportunities (e.g. mentoring, career guidance, learning and development opportunities). • Demonstration of successfully meeting similar employment and workforce requirements on previous projects.
First Nations participation <ul style="list-style-type: none"> • First Nations participation commitments. • Strategies and evidence to support the achievement of commitments. 	<ul style="list-style-type: none"> • Commitments that will provide economic benefits for First Nations communities, delivered through investment in First Nations initiatives including employment, economic participation and/or education & training. • Strategies and activities that demonstrate how the commitments will be achieved. • Commitments that seek to address identified barriers in specific local community context that are impeding greater economic participation by First Nations businesses or individuals such as workforce preparedness or local business maturation. • Completed MC7 Returnable Schedule with First Nations participation commitments. 	<ul style="list-style-type: none"> • Demonstration of Project commitments that meet or exceed baseline requirements at Table 14. • Evidence of clear strategies, actions, policies, and practices to support the achievement of commitments. • First Nations commitments that have considered and incorporated relevant community feedback in the design process and are tailored to specific First Nations communities. • Employment initiatives or programs including workforce preparedness programs to help First Nations people to enter the workforce and remove known blockages for entering (i.e. trade skills and licencing requirements, small business readiness programs, etc). • Demonstration of successfully meeting similar First Nations participation requirements on previous projects.

4.3 STRATEGIC CONSIDERATIONS

Scope: as detailed in [Section 3.1.4](#), the Consumer Trustee will 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 (**Strategic Considerations**).

These may include, but are not limited to:

- the LDS minimum objectives for 2030 and 2034;
- the IIO Report and achievement of the development pathway;
- the Reliability Standard and the impact of the Project on unserved energy events;
- deliverability and contracting risk;
- cost and risk to the SFV; and
- potential for the Project to avoid or defer costs of projected regulated investment in the network.

Generally, the Strategic Considerations are considered by leveraging information made available by Proponents through Proponents' answers to addressing the Merit Criteria (through the relevant Bid forms). The Consumer Trustee may require additional information to support this element of assessment, and this is expected to be required for assessing the potential for a Project to avoid or defer costs of projected regulated investment in the network.

Table 16: Example application of Strategic Considerations

What is considered	What is required	What we are looking for
Potential for the Project to avoid or defer costs of projected regulated investment in the network	<ul style="list-style-type: none">• Where relevant, any information and supporting analysis where the Proponent claims the Project will avoid, reduce or defer projected regulated network infrastructure investment.	<ul style="list-style-type: none">• Ability to demonstrate that a Project could address an identified network risk or issue.• Evidence to support any claims of avoided, reduced or deferred projected regulated network infrastructure investment and explanation of its quantified value.• Agreements, or the progress of agreements, with NSPs.



5. Tender Conditions

5.1 APPLICATION AND AGREEMENT TO COMPLY WITH TENDER CONDITIONS

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

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

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

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

The Tender Conditions apply to:

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

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

In addition to any other remedies available to the Consumer Trustee under Law or contract (including under the Tender Process Deed), any failure to comply with the Tender Conditions will, in the 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); and

- i. a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and all legislation, regulations, rules or statutory instruments under it.

5.3 NOT AN OFFER

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

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

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

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

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

5.4 LIABILITY

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 Member) and their respective Associates are not entitled to make any Claim against the Consumer Trustee 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, 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, 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, (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, 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 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 REPRESENTATIVE

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 and the PDA.

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, 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 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 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, 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 seven (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; or
- 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;
- 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; or
- d. Associates,

and the Proponent must provide the list or lists requested within two (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 approved by the Consumer Trustee. If the Proponent becomes aware that an Associate of the relevant Proponent is also an Associate of a Competing proponent or any of the Consumer Trustee or its Associates (**Shared Associate**), it must promptly notify the Consumer Trustee.

If the Proponent notifies the Consumer Trustee, or the Consumer Trustee notifies the Proponent, of a Shared Associate:

- a. the Proponent must, on written request from the Consumer Trustee provide 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

- b. the Consumer Trustee will confirm whether such Conflict Protocols have been implemented by the relevant parties to the Consumer Trustee's satisfaction,

in which case, the Shared Associate may continue to be an Associate of both the relevant Proponent and the Competing Proponent and/or the Consumer Trustee or its Associates (as applicable).

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 twelve (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;
- 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; or
- d. included in reports produced by the Consumer Trustee, provided that where such reports are publicly available, Bids are de-identified.

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 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 Section 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. requiring the execution of confidentiality and process arrangements; or
- c. issuing further procedures and timetables to the Proponent or any Competing Proponent and requiring the Proponent or any Competing Proponent to comply with the further procedures and timetables provided.

5.33 BID EVALUATION

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

5.34 RECOMMENDED BIDS AND SELECTED PROPONENTS

Prior to the recommendation of Recommended Bids to the SFV, the Consumer Trustee will finalise the necessary details of the Project Documents based on the Recommended Bids in preparation for the final

contract award stage. To facilitate this, the Consumer Trustee may require additional information from one or more Proponents or their Associates and their participation in meetings relating to the Tender Round. This stage of the process could include finalising documentation with either the Consumer Trustee, or the SFV (as applicable). Where applicable, the Proponent and their Associates must use reasonable endeavours and provide all reasonable assistance to finalise the Project Documents. The selection of a Recommended Bid does not constitute an acceptance of the Bid submitted by the Selected Proponent and is without prejudice to the Consumer Trustee's rights to finalise the Project Documents (as applicable), or the SFV's right to enter into the Project Documents with any other Proponent or any other person.

5.35 MATERIAL CHANGE IN CIRCUMSTANCE

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 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.

5.37 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; and
- b. the Proponent must prepare its Bid to take into account and reflect the content of any such Addendum to the extent applicable to the Product subject of the Bid.

5.38 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.

5.39 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.

5.40 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 5.40.

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.

5.41 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).

5.42 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 Consumer Trustee is required to incorporate elements from several regulatory sources when conducting a Tender Round. The purpose of this section is to summarise how certain regulatory instruments are relevant for this Tender Round. The table below outlines key regulatory considerations which provide context for the Tender Round.

Table 17: Regulatory Considerations for Tender 6

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	<i>The Electricity Infrastructure Investment Act 2020</i> (NSW), 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	The IIO Report sets out the development pathway for long duration storage (and other infrastructure types) to achieve the relevant infrastructure investment objectives including the 2030 and 2034 minimum objectives as well as the overall objectives related to reliability and energy security. The IIO Report also sets out the ten (10) year tender plan to give effect to the development pathway, specifying the frequency of tenders and indicative tender targets. Tenders are then required to be conducted on the basis of the IIO Report, providing strong guidance to the Consumer Trustee tender decisions, but not a rigid rail which must be adhered to at all costs.
Tender Rules	A gazetted document that sets out how the Consumer Trustee will conduct Tender Rounds in respect of the award of LTESAs.
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.

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 ROADMAP³¹

The Roadmap 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 and 16 GWh 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 LDS and transmission infrastructure. LTESAs will provide the financial support required to facilitate the private sector investment in LDS 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.

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);
- Scheme Financial Vehicle;
- Infrastructure Planner (Energy Corporation of NSW) (EnergyCo);
- Financial Trustee;
- NSW Renewable Energy Sector Board; and
- 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 ten (10) year plan for LTESA competitive tenders.³²
- Conduct competitive tenders for LTESAs in accordance with regulations and the gazetted Tender Rules.³³

6.2.2 Scheme Financial Vehicle (SFV)

The SFV is the counterparty to any LTESAs.

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.

³¹ [NSW Electricity Infrastructure Roadmap Virtual Engagement Room](#).

³² Section 45 of the EII Act.

³³ Section 47 of the EII Act.

6.2.3 Infrastructure Planner (EnergyCo)

EnergyCo is a statutory authority established under the *Energy and Utilities Administration Act 1987* (NSW) and is responsible for leading the delivery of Renewable Energy Zones as part of the NSW Government's Electricity Infrastructure Roadmap.

EnergyCo has been appointed as the Infrastructure Planner under the EII Act.

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 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**).³⁴

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.

6.2.6 Regulator

The 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 the 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.

6.3 ELECTRICITY INFRASTRUCTURE INVESTMENT ACT 2020 (NSW)

The delivery of the Roadmap is enabled by the 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.

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 GWs.
- 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.

³⁴ 57 Section 7(4) of the EII Act

Relevance to Tender Rounds

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

- How the Consumer Trustee can make recommendations to the SFV about LTESAs.
- 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.

6.4 ELECTRICITY INFRASTRUCTURE INVESTMENT REGULATION 2021 (NSW)

The 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.

6.5 IIO REPORTS

The EII Act requires that the Consumer Trustee prepare a report every two (2) years (and more frequently in certain circumstances) about Infrastructure Investment Objectives (IIO). The 2023 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, LDS 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 GW of renewable energy.
 - At least 2 GW of LDS.
- Overall objectives to construct:
 - Generation infrastructure to minimise electricity costs for NSW electricity customers.
 - LDS 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 IIO 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. The 2023 IIO Report was published prior to the NSW Government introducing new minimum infrastructure investment objectives for LDS by 2034. The 2025 IIO Report is scheduled to be released in Q3 2025 and will contain an updated development pathway reflecting the new objective and the

Consumer Trustee's view about the need for additional LDS infrastructure beyond the minimum objective to meet NSW reliability needs.

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.³⁵ 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; and
- matters prescribed by the EII Regulation.³⁶

6.7 THE NSW RENEWABLE ENERGY SECTOR BOARD PLAN

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.³⁷ Once approved by the Minister upon recommendation by the IPART, the Sector Board Plan must be published on the Department of Climate Change, Energy, the Environment and Water (DCCEW) website and takes effect on the day it is published.³⁸

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).³⁹

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.⁴⁰

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

³⁵ Section 47(5) of the EII Act and clause 42A(2)(a) of the EII Regulation.

³⁶ Sections 47(5) of the EII Act.

³⁷ Section 7(4)(a) of the EII Act.

³⁸ Section 8(5) of the EII Act.

³⁹ Section 8(1) of the EII Act

⁴⁰ Section 9(1) of the EII Act.

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.⁴¹

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

⁴¹ Section 4(4) of the EII Act. Please see [MC4](#) and [MC7](#) for further details on how this will be assessed in the IAPP.



7. 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 – at Project Bid submission stage:

- Tender Process Deed – Single Proponent; or
- Tender Process Deed – Consortium.

To be entered into at award stage:

- LTESA;
- PDA; and
- Tripartite Deed (LTESA and PDA).

A summary of the key Project Documents is provided in **Table 18**.

Table 18: Summary of Project Documents

Document	Description	Counterparty
LTESA	A financial derivative contract that provides an LTES Operator with a series of options to access a variable annuity payment.	SFV
PDA	The agreement outlining the obligations on the LTES Operator to achieve Financial Close, construct and commission the Project to a level required to support the operation of the LTESA, and comply with agreed social licence commitments as part of the Bid.	SFV

8. Glossary

This document uses many terms that have meanings defined in the National Electricity Rules (NER). The NER meanings are adopted unless otherwise specified.

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

Term	Definition
Access Right	Access Rights allocated under a declared Access Scheme that authorise access to, and use of, the Access Rights Network
Access Right Holder	The person who holds an Access Right granted under the relevant Access Scheme
Access Rights Network	The network infrastructure to which the Access Scheme applies
Access Scheme	An access scheme declared by the Minister under section 24 of the EII Act to apply in a renewable energy zone or part of a renewable energy zone
Addendum	Any document issued by the Consumer Trustee after the date of these Guidelines and labelled as an "Addendum" to these Guidelines; collectively known as "Addenda"
AEMO	Australian Energy Market Operator Limited (ABN 94 072 010 327)
AEMO Services	AEMO Services Limited (ABN 59 651 198 364)
AER	Australian Energy Regulator
Alternative Financial Value Bid	The document submitted by a Proponent following a Project Bid, forming part of a Financial Value Bid, as described in Section 3.1.4 , including any Returnable Schedules, together with any additional information submitted by the Proponent
Approval	Any approvals, authorisations, permits, consents, licences, registrations, determinations, certificates, permissions, exemptions and the like from any Authority or under any Law required to be issued, obtained or satisfied in connection with the performance by the Selected Proponent of its obligations under the Project Documents
Assessment Criteria	Eligibility Criteria and Merit Criteria
Assisting Entities	Assisting Entities means: <ul style="list-style-type: none"> o AEMO; o EnergyCo; o Transgrid (the NSW jurisdictional transmission planner); o The Network Operator; o The Scheme Financial Vehicle; and o 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
Associate	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: <ul style="list-style-type: none"> o in the case of a Proponent, includes: <ul style="list-style-type: none"> o each Consortium Member and any Related Body Corporate, adviser, officer, employee, agent, contractor, consultant, nominee, licensee or adviser of a Consortium Member; o any Debt or Equity Providers (in respect of the Project) and any Related Body Corporate, adviser, officer, employee, agent, contractor, consultant, nominee, licensee or adviser of each Debt or Equity Provider (in respect of the Project); o 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 o in the case of the Consumer Trustee, 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
BESS	Battery energy storage system
Bid	Project Bid and/or Financial Value Bid submitted by Proponents in a Tender Round

Term	Definition
Bid Entity	The legal entity to be responsible for the Proponent's Project Bid and Financial Value Bid, bonding, and counterparty to the Project Development Agreement and/or LTESA, as proposed in accordance with Eligibility Criteria 3
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; or 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 Project Development Agreement
Community Engagement Plan	The plan to be submitted as part of a Bid in respect of EC9 and Merit Criteria 7 that complies with the requirements set out in Returnable Schedule for Merit Criteria 7
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	NSP'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"> o sponsor(s), including each 'Proponent Consortium Member' as that term is defined in the Consortium Process Deed; and o 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
Consumer Trustee	The Consumer Trustee as appointed under the EII Act, this being AEMO Services
Debt or Equity Provider	Any actual or potential provider of debt or equity funding, facilities or accommodation directly or indirectly to the Proponent in relation to the Project, including any security trustee, bond trustee, agent, underwriter, arranger, financial guarantor, bond provider or hedge counterparty however described
Default Financial Value Bid	The document submitted by a Proponent following a Project Bid, being the mandatory essential part of a Financial Value Bid, as further described in Section 3.1.4 of these Guidelines including any Returnable Schedules, together with any additional information submitted by the Proponent
Development Approval	A 'development approval' pursuant to the <i>Environmental Planning and Assessment Act 1979</i> (NSW)
DEVEX	Development expenditure
Disclosed Information	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: <ul style="list-style-type: none"> o 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; o any oral or written advice, representations or information given by or on behalf of the Consumer Trustee or any of their Associates during this Tender Round; o all material contained in any data room used by the Consumer Trustee and the Proponents; and o 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, Consumer Trustee or any of their Associates or should be treated as such
DNSP	Distribution Network Service Provider
Duplicative Bid	A bid in respect of the same Project as another Bid from the same Proponent or its Associates, where there are only changes to the configuration or design (such as capacity or storage duration)
EII Act	<i>Electricity Infrastructure Investment Act 2020</i> (NSW)

Term	Definition
EII Regulation	<i>Electricity Infrastructure Investment Regulation 2021 (NSW)</i>
Electricity Infrastructure Fund	As set out in Part 7 of the EII Act
Electricity Infrastructure Investment Safeguard	As set out in Part 6 of the EII Act
Eligibility Criteria or EC	Proponent Eligibility Criteria and Project Eligibility Criteria
EnergyCo	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 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 (FC)	In respect of a Project, has the meaning given to that term in the relevant Project Development Agreement
Financial Trustee	The 'financial trustee' appointed by the Consumer Trustee to administer the SFV pursuant to 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 3.1.4 , including any Returnable Schedules together with any additional information submitted by the Proponent
Financial Value Bid Closing Date and Time	As defined under Important Dates
Financial Value Merit Criteria	Financial Value Merit Criteria as set out in Section 4.2.2 of these Guidelines
Financial Value Shortlist	Selected shortlist of Financial Value Bids to be progressed to Portfolio Assessment
FIRB	Foreign Investment Review Board
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
GW	Gigawatt
GWh	Gigawatt-hour
Hybrid Project	As defined in Section 3.4 of these Guidelines
IIO	Infrastructure Investment Objectives
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)	As defined in Financial Value Merit Criteria in these Guidelines
Infrastructure Investment Objectives	The 'Infrastructure Investment Objectives' as defined in section 44 of the EII Act
Initial Security	In respect of a Bid, has the meaning given to that term in the Project Development Agreement
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>
IPART	Independent Pricing and Regulatory Tribunal of NSW

Term	Definition
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	Any loss, cost, liability or expense whether: <ul style="list-style-type: none"> o arising from or in connection with any proceeding or Claim or not; o liquidated or not; o legal or equitable; o present, prospective or contingent; or o 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
LTES Operator	Party responsible for the operation and management of generation, firming infrastructure or long duration storage facility in connection with a LTESA
Merit Criteria (MC)	Merit Criteria as set out in Section 4.2 of these Guidelines
Minister	NSW Minister for Energy
MW	Megawatt
NEL	The National Electricity Law, set out in the schedule to the <i>National Electricity (South Australia) Act 1996</i> (SA) 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
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	New South Wales
NSW Electricity Infrastructure Roadmap (Roadmap)	The NSW Government's plan to transform the NSW electricity sector by supporting private investment in renewable energy projects by 2030
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 3.1.1 of these Guidelines
Portfolio Shortlist	Selected shortlist of Financial Value Bids at the conclusion of the Portfolio Assessment stage
Product	The product (LDS LTESA) being procured under this Tender Round
Project	A storage facility built in respect of which an LTESA 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 Project Bids
Project Bid	The document submitted by a Proponent in relation to the Project on or before the Project Bid Closing Date and Time, including any Returnable Schedules) together with any additional information submitted by the Proponent
Project Bid Closing Date and Time	As defined under Important Dates
Project Characteristics	The key technical characteristics of a Project including its registered capacity, maximum capacity, fuel source and operational life
Project Development Agreement (PDA)	A contract that governs the achievement of financial close, the construction and relevant social licence commitments of a Project awarded an LTESA

Term	Definition
Project Documents	<p>The Project Development Agreement and LTESA, together with any other documents that are:</p> <ul style="list-style-type: none"> ○ required or contemplated under the Project Development Agreement 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 Project Development Agreement 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 Important Dates
Regulator	Australian Energy Regulator (AER) and/or Independent Pricing and Regulatory Tribunal (IPART) as the context requires
Regulatory Instrument	<p>Includes:</p> <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	The Returnable Schedules to be provided by the Proponent as part of the submission of a Bid as referred to in these Tender Guidelines
REZ	A 'renewable energy zone' under section 23 of the EII Act
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 and responsible for administering payments 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 6.7 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
Shared Associate	As described in Section 5.16 of these Guidelines
Stage A	As described in Section 3.1.3 of these Guidelines
Stage B	As described in Section 3.1.4 of these Guidelines
Stage C	As described in Section 3.1.5 of these Guidelines
Strategic Considerations	As described in Section 4.3 of these Guidelines
Tender Commencement Date	The date of which the Tender Round is opened

Term	Definition
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; 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
Tender Guidelines or Guidelines	This document, including its Tender Round details (before the table of contents), schedules, attachments and appendices, and any Addenda
Tender Process Deed	A legally binding deed, setting out the terms under which Proponents participate in the Tender Round
Tender 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 of the EII Regulation, that sets out how the Consumer Trustee will conduct Tender Rounds in respect of the award of LTESAs
Total Project Contract Value or TPCV	As defined in Financial Value Merit Criteria in these Guidelines
Total Project Workforce or TPW	As defined in Financial Value Merit Criteria in these Guidelines
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
Wholesale Market Benefit	As defined in Section 4.2.2 of these Guidelines



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