



Consumer
Trustee

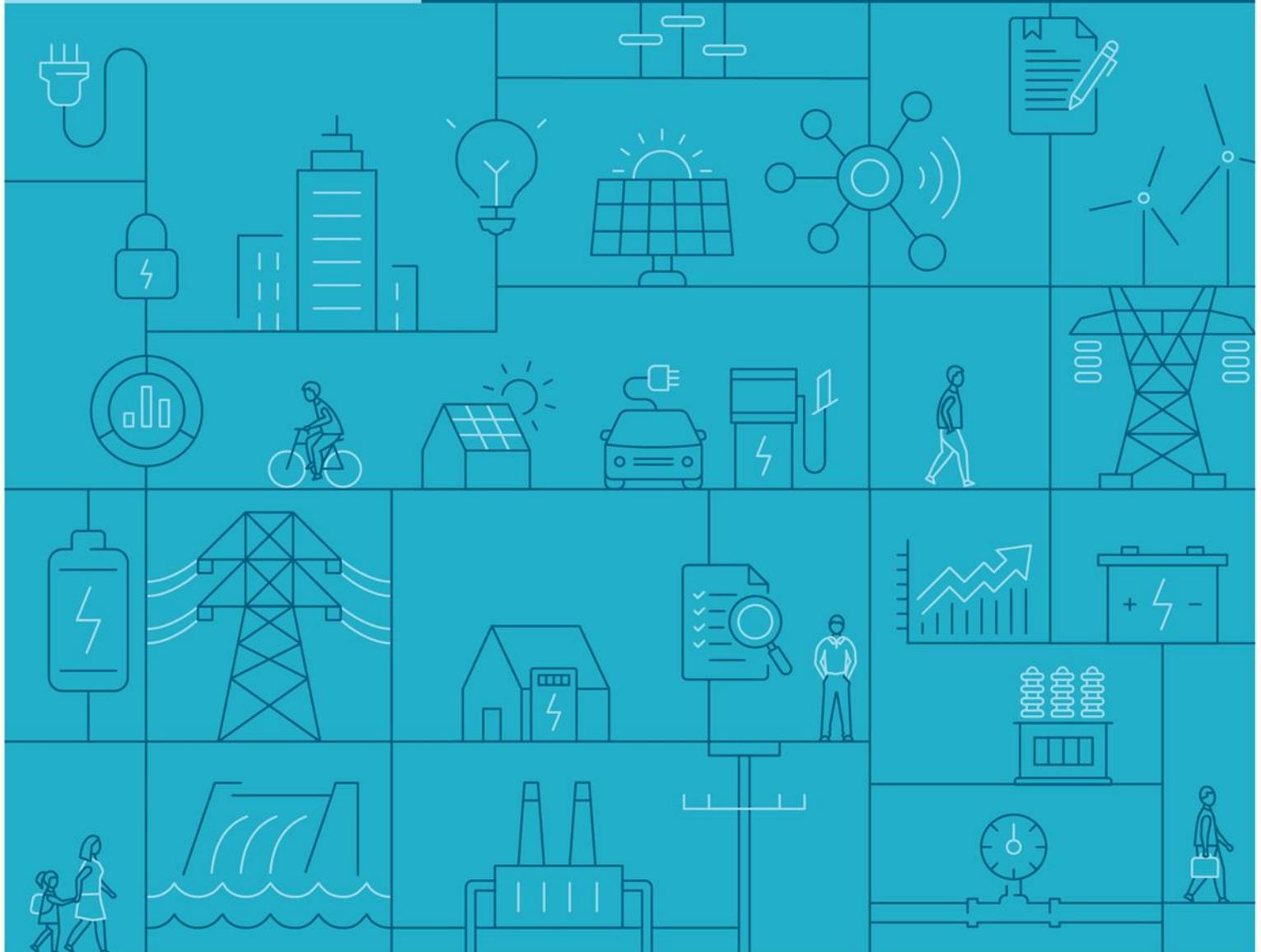
NSW Consumer Trustee Section 70(1) Report

30 June 2024

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

We pay our respect to their Elders past and present.

Prepared by AEMO Services
Limited



Document purpose

Purpose

This report is prepared by AEMO Services Limited (**AEMO Services**) as the New South Wales (**NSW**) Consumer Trustee to comply with the requirements under section 70(1) of the *Electricity Infrastructure Investment Act 2020* (NSW) (**EII Act**).

This report has been prepared by AEMO Services using information available as at 30 June 2024. Information made available after this date may have been included in this document where practical.

Introduction

NSW Consumer Trustee

The NSW Government appointed AEMO Services as the State's Consumer Trustee on 23 July 2021 to act in accordance with the functions prescribed in the EII Act. The Consumer Trustee appointment was subject to the satisfaction of conditions precedent described in an Instrument of Appointment between AEMO Services and the State of NSW.

The conditions in the Instrument of Appointment were satisfied and appointment of the Consumer Trustee became effective on 22 November 2021.

Under section 60 of the EII Act, the Consumer Trustee:

1. must act independently and in the long-term financial interests of NSW electricity customers.
2. has the following functions:
 - to advise the Minister and the infrastructure planner in relation to proposed and declared renewable energy zones (REZ) and proposed and required REZ network infrastructure projects,
 - to negotiate, in accordance with any requirements prescribed by regulations, with a person in relation to LTES agreements,
 - other functions prescribed by regulations,
 - other functions conferred or imposed on the consumer trustee by or under the EII Act or another law.

In this report, AEMO Services:

- describes each of the Consumer Trustee functions under the EII Act and regulations; and
- reports on the exercise of those functions during the financial year ended 30 June 2024.

During FY24, the Consumer Trustee has sought to act independently and in the long-term financial interests of NSW electricity customers in the performance of its functions.

This report contains two sections. Section 1 is an executive summary which contains a description of the Consumer Trustee functions together with a summary of key activities for FY24 and priorities for FY25. Section 2 is the detailed report, presented in the form requested by the Independent Pricing and Regulatory Tribunal of NSW (**IPART**).

Section 1 – Executive Summary

1.1 Consumer Trustee functions

In our role as Consumer Trustee, AEMO Services is a key partner in the implementation of the NSW Electricity Infrastructure Roadmap (**Roadmap**).

We incentivise investments in electricity generation, storage, and firming infrastructure through LTESAs. Through our rolling schedule of competitive tenders and coordinated investment planning, we act in the long-term financial interests of NSW electricity customers to support a future network that delivers quality energy, where and when it is needed.

Whilst our main function as Consumer Trustee is to plan for, design and operate the tender process for new infrastructure in generation, firming and long-duration storage, we also play a role in REZ network infrastructure project authorisations based on recommendations provided by the Energy Corporation of NSW (**EnergyCo**).

1.2 Delivering on the objectives of the Act in FY24

Infrastructure Investment Objectives Report (IIO) (EII Act, section 45)

AEMO Services, as the Consumer Trustee, prepares IIO Reports which set out a development pathway for the next 20 years and a tender plan for the next decade, identifying the timing and scale for renewable energy generation and storage investment to achieve the IIO.

Under the EII Act, the Consumer Trustee is required to publish an IIO Report approximately every two years,¹ or after being directed by the Minister under section 47(2) to conduct a competitive tender for firming infrastructure LTESAs.

AEMO Services published its Final 2023 IIO Report on 21 December 2023. The report sets out a development pathway and ten-year competitive tender plan for generation and long-duration storage infrastructure. The report includes a development pathway for firming infrastructure but does not include a tender plan for this infrastructure, in the absence of a direction from the Minister to conduct further firming infrastructure tenders and following the completion of Tender Round 2 for firming infrastructure.

Long-Term Energy Service Agreements (LTESAs) and competitive tenders (EII Act, sections 46–50)

In FY24, we utilised the established process of the inaugural tender to complete Tender Round 2 (Firming Infrastructure), Tender Round 3 (Generation and LDS) and Tender Round 4 (Generation). We have also commenced Tender Round 5 (Access Rights and LDS) which will conclude in FY25.

AEMO Services was directed by the Minister to conduct a competitive tender for LTES agreements for firming infrastructure on 27 July 2022, under section 47(2).

Further to this direction, AEMO Services published a Firming IIO Report on 2 December 2022, which set out a development pathway for firming infrastructure and key parameters of Tender Round 2 for firming infrastructure. The tender commenced 3 April 2023 and concluded in November 2023.

Tender Round 2 resulted in a significant contribution to the reliability and security of our energy system. The tender originally sought at least 380 MW of firming infrastructure and demand response from the market but was expanded to 930 MW with the Australian Government supporting up to an additional 550MW of firming infrastructure through the Capacity Investment Scheme.

The successful projects in Tender Round 2 included two, 2-hour duration Battery Energy Storage Systems (BESS) projects, one 4-hour duration BESS project, and three demand response projects.

¹ On 12 December 2023, section 45(2)(b) of the EII Act was amended to specify that an IIO report is to be published *approximately* every 2 years after the first report, rather than every 2 years.

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Combined, they will provide 1,075 MW with almost 3 gigawatt hours (GWh) of energy to the network.

All projects committed to be operational by December 2025 and make meaningful contributions to the local workforce and communities.

Market results indicate that the incentive LTESA offered through the tender process is working to deliver better social licence outcomes and value for both NSW electricity customers and project proponents.

The results and outcomes of the tenders together with supporting documentation including tender rules, tender guidelines, contracts, and market briefing notes are available on AEMO Services' website.

In addition, a number of public interactive webinars have been held to provide education and information for proponents.

Access schemes fees (EII Act, section 26)

AEMO Services exercise this function in accordance with the grant of Access Rights under a Renewable Energy Zone (**REZ**) Access Scheme Declaration.

EnergyCo, as the Infrastructure Planner, is conducting a tender for Access Rights for Central-West Orana (**CWO**) REZ following the publication of the CWO REZ Access Scheme Declaration.

The Access Fee Guidelines, draft Determination, and draft Access Fee Calculator for CWO REZ were published in April 2024. It is anticipated that the Access Fees for Access Right Holders in CWO REZ will be determined in September 2024 coordinated with the grant of Access Rights by EnergyCo.

AEMO Services is conducting a tender for Access Rights for South-West (**SW**) REZ following the publication of the SW REZ Access Scheme Declaration, to make recommendations to EnergyCo in its role as the Infrastructure Planner, on the granting of Access Rights.

The Access Fee Guidelines, draft Determination and draft Access Fee Calculator for SW REZ were published in May 2024.

It is anticipated that the Access Fees for Access Right Holders in SW REZ will be determined in January 2025 coordinated with the grant of Access Rights by EnergyCo.

It is anticipated that an Access Scheme Declaration for Hunter-Central Coast (**HCC**) REZ will be made in FY25, and that Access Fees will be determined in FY26.

Renewable Energy Zone (REZ) Network Authorisation (EII Act, section 31)

The EII Act contains a framework for identifying, developing and delivering network infrastructure projects in REZs. The framework helps to ensure that infrastructure built in REZs are in the long-term financial interest of NSW electricity customers.

The authorisation function is a necessary step to enable a network operator to carry out a REZ network infrastructure project, after EnergyCo, as the Infrastructure Planner, has provided its recommendation to AEMO Services about a REZ network infrastructure project.

In September 2023, AEMO Services published the Network Authorisation Process and Approach Paper (formerly the Network Authorisation Guidelines), which outlines how AEMO Services intends to undertake its authorisation function in its role as Consumer Trustee.

This was subsequently updated in March 2024 to align with NSW Treasury Cost Benefit guidelines.

AEMO Services received a recommendation from EnergyCo for two REZ network infrastructure projects in the CWO REZ (the Main CWO and Enabling CWO projects) on 22 December 2023.

AEMO Services considered these recommendations and exercised its function under section 31(1)(b) of the EII Act to authorise the recommended network operators to carry out these projects.

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AEMO Services published the notices of authorisation, and statements of reasons for each of the Main CWO and Enabling CWO projects, on its website on 5 June 2024.

During FY24, AEMO Services has engaged regularly with EnergyCo on its plans for future recommendations, including for the HCC REZ and New England (NE) REZ.

Advice to the Infrastructure Planner (EII Act, section 60(4)(a), (c) and EII Regulation, clause 18)

In FY 24, AEMO Services provided advice under section 60(4)(a) to EnergyCo in relation to proposed REZ network infrastructure projects in declared REZs. Advice was also provided under clause 18 of the *Electricity Infrastructure Investment Regulation 2021 (EII Regulation)* in relation to network infrastructure projects.

Financial Risk Management (EII Act, section 51)

In FY23, AEMO Services established a Statutory Risk Management Framework and subsidiary policies to guide the management of financial risks related to the delivery of the Roadmap. The Australian Energy Regulator (AER) approved the Risk Management Framework (EII Act, section 51(3)) in July 2022.

Subsidiary policies were first approved by the AEMO Services and Scheme Financial Vehicle (SFV) boards during FY23 and have since been subject to periodic review and refinement.

Establishment of the Scheme Financial Vehicle (SFV) (EII Act, sections 61–62)

In FY23, AEMO Services appointed the Financial Trustee (FT), Equities Trustees Limited (EQT). The appointment of the FT continued throughout FY24. In early FY25 the first contract renewal decision will take place.

The FT (EQT) continued to administer the SFV throughout FY24. The SFV is governed by an independent Board and the Electricity Infrastructure Fund continues to manage cash inflows and outflows under the EII Act.

The SFV serves as the independent contractual counterparty to LTESAs and provides revenue (as determined by the AER) for REZ network infrastructure projects and Priority Transmission Infrastructure Projects developed under the Roadmap.

The SFV continues to hold a Aa3-stable credit rating from Moody's.

1.4 Response to Minister's Request (EII Act, section 70(3))

Under section 70(3) of the EII Act, the annual report must contain information required by the Minister for Climate Change, Energy, Environment and Heritage.

The Minister wrote to IPART on 13 May 2024, requesting information be included in the 2023/24 Electricity Infrastructure Roadmap Annual Report on the outcomes for local Aboriginal communities and the achievement of local content requirements through the implementation of the Electricity Infrastructure Roadmap. The Minister also requested a summary of the LTESAs and Access Rights awarded during FY24.

In line with the Minister's request last year, outcomes for Aboriginal communities and local content requirements continues to be of interest. The Minister has requested the following information be included:

- *Information about the local content commitments made and corresponding results due to the Consumer Trustee and Infrastructure Planner's consideration of the Renewable Energy Sector Board's Plan (section 8 of the Act, including minimum local content requirements) when exercising their functions under the EII Act.*
- *Information about consultation with local Aboriginal communities, and income and employment commitments made and corresponding results for local Aboriginal communities due to the Consumer Trustee and Infrastructure Planner's consideration of the First Nations Guidelines (Section 4 of the Act) when exercising their functions under the EII Act.*

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In response to the Minister's request, AEMO Services' can provide the following information:

- AEMO Services considers the minimum requirements and recommendations outlined in the Renewable Energy Sector Board Plan when conducting, assessing and making recommendations in tender rounds.
- AEMO Services also considers the First Nations Guidelines regarding consultation and negotiation with local Aboriginal communities and the NSW Renewable Energy Sector Board Plan by incorporating recommendations in the tender process in accordance with the Table 1 below.

Table 1: EII Act and EII Regulation requirements for competitive tenders for LTESAs

EII Act or EII Reg Ref	EII Act or EII Reg requirement for competitive tenders for LTESAs	Where this requirement is reflected in these Tender Rules
s4(4)	Guidelines issued by the Minister regarding consultation and negotiation with the local Aboriginal communities in relation to relevant projects for the purposes of increasing employment and income opportunities for local Aboriginal communities must be taken into account by the Consumer Trustee.	'Community engagement, shared benefits and land use considerations' Merit Criteria 'Regional economic development' Merit Criteria
s9(1)	The plan for the NSW renewable energy sector (published pursuant to the EII Act, section 8(5)) must be taken into account by the Consumer Trustee in the exercise of its functions under the EII Act.	'Regional economic development' Merit Criteria

Table 2 provides a high-level description of the eligibility and merit criteria where these requirements have been incorporated.

Table 2: Project Eligibility and Merit Criteria

Criteria	High-level description
Eligibility Criteria 22	If the Proponent is a 'reporting entity' under the <i>Modern Slavery Act 2018 (Cth)</i> 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.
Community engagement, shared benefits and land use considerations (MC4)	Evidence of efforts to: <ul style="list-style-type: none"> • Engage with local communities and stakeholders to foster local community support that is generally consistent with applicable NSW Government guidelines.² • Share financial benefits of the Project's construction and operations with local communities and stakeholders. • Improve land use considering environmental constraints and opportunities in the site selection process that is generally consistent with applicable NSW Government guidelines.³

² Or equivalent documents as updated or otherwise noted in Tender Guidelines.

³ Or equivalent documents as updated or otherwise noted in Tender Guidelines.

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<p>Regional economic development (MC7)</p>	<p>Demonstration and/or commitments to improve regional economic development including local supply chain, workforce and First Nations participation.⁴</p> <p>The Consumer Trustee takes into account the guidelines regarding consultation and negotiation which consider and incorporate community interests in the design of the initiatives and are tailored specifically to local and/or First Nations communities and the plan for the NSW renewable energy sector board.</p>
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Outcomes

- ASL conducted three tenders in FY24 which have resulted in 13 LTESAs being awarded with a local content investment of approximately 32% of overall total project contract value. Progress against these commitments are managed by the Scheme Financial Vehicle.
- Approximately 1% of total project contract value has been committed to First Nations Participation.
- The Consumer Trustee provides information to other Roadmap entities on commitments made as appropriate based on their function (i.e. RESB and other relevant stakeholders).

1.5 Priorities for FY25

In FY25, AEMO Services will continue to deliver on its Consumer Trustee obligations and responsibilities under the EII Act.

At the date of this report, key anticipated deliverables include:

- CWO REZ access fee determination (EII Act, section 26).
- Delivery of Tender Round 5⁵ (EII Act, section 47).
- Commencement of Tender Round 5 SW REZ. Access Rights and Long-Duration Storage LTESA recommendation is anticipated to be made in December 2024 (EII Act, section 48(1); EII Regulation, clause 42A(2)(c)).
- Tender Round 6 is anticipated to commence in November 2024 and Tender Round 7 is anticipated to commence May 2025. As per the current IIO tender plan, Tender Round 6 is scheduled to offer Generation LTESAs, and Tender Round 7 is scheduled to offer Generation and Long-duration storage LTESAs based on the 10-year tender plan in the IIO Report.
- Tender Rounds 6 and 7 may also include unallocated Access Rights for declared Renewable Energy Zone Access Rights where the Consumer Trustee is instructed to conduct a tender by the EnergyCo (EII Regulation, clause 42A(1)(b)).
- An update to the Network Authorisation Process and Approach to reflect updates to the EII regulations commencing 1 July 2024 (**NAPAP**) (EII Act, section 31).
- Consultation on development of the 2025 IIO Report (EII Act, section 45).
- AEMO Services will publish its FY25 Corporate Plan prior to 30 September 2024. The Corporate Plan provides further detail on all major activities planned for the period FY25 to FY27.

⁴ These commitments are to be reflected in an IAPP as part of a Bid, that will become contractually binding upon award in accordance with the Aboriginal Procurement Policy January 2021 (nsw.gov.au), or in equivalent documents as updated or otherwise noted in Tender Guidelines.

⁵ Tender Round 5 is anticipated to commence Q2 2024 dependant on declaration and access right readiness deliverables.

Section 2 – Detailed report

Function area	Ref ⁶	Function	Comments
Consultation and negotiation with local Aboriginal communities	Section 4(4)	Take the guidelines (issued by the Minister) about consultation and negotiation with the local Aboriginal community into account when exercising the Consumer Trustee's functions under Part 6, Divisions 3 and 4 ⁷ .	<p>Under section 4(4)-(5) the Consumer Trustee considered the First Nations Guidelines when conducting Tender Rounds by designing and implementing Merit Criteria 6 and 7 to evaluate proponents' commitments, including their consultation with Aboriginal communities. The Tender Guidelines provide detailed information for proponents on the merit criteria and directs them to the First Nations Guidelines and region-specific guidelines prepared by OECC for further guidance when preparing bids. The Consumer Trustee also published a market briefing note detailing good practice across land use considerations, regional economic development, community engagement and shared benefits which is available on its website.</p> <p>Tender proponents were required to fulfil economic participation obligations, such as subcontracting to First Nations businesses, employing Aboriginal and Torres Strait Islander individuals, and investing in education, training, or capacity building for these businesses. The successful bids from Tender Rounds 2, 3 and 4 have substantial commitments to subcontracts for First Nations businesses and for direct employment of Aboriginal and Torres Strait Islander peoples.</p> <p>These commitments are legally binding and subject to contractual monitoring and enforcement. Under the Project Development Agreement (PDA) and LTESA, the project counterparty must provide regular reports to the Scheme Financial Vehicle. Failure to meet targets can result in escalation, the implementation of agreed plans to realign with targets, or termination of the LTESA.</p>

⁶ In this column, references to sections are to section of the EII Act, while references to clauses are references to clauses of the regulations.

⁷ Part 6 Electricity Infrastructure Investment Safeguard, Division 3 Long-Term Energy Service Agreements and Division 4 Operation of Long-Term Energy Service Agreements, of the EII Act.

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	Section 4(5)	To give effect to the guidelines about consultation and negotiation with the local Aboriginal community, the Consumer Trustee may include a recommendation (under section 31(1)(a)) to the Minister and impose a condition on an authorisation (under section 31(1)(b)).	<p>The Consumer Trustee received a recommendation from the EnergyCo of NSW in its role as Infrastructure Planner, for two REZ network infrastructure projects in the CWO REZ (the Main CWO and Enabling CWO projects) on 22 December 2023. EnergyCo's public recommendation report can be found on its website.</p> <p>The Consumer Trustee has authorised the recommended network operators to carry out the Main and Enabling CWO projects. It also decided not to impose conditions on these authorisations to give effect to the First Nations Guidelines. A public statement of reasons for this decision for each project is available on AEMO Services website.</p>
Plan for NSW renewable energy sector	Section 9(1)	Take into account the Plan for NSW renewable energy sector, when exercising all functions under the Act.	<p>In authorising the recommended network operators to carry out the Main and Enabling CWO REZ network infrastructure projects, the Consumer Trustee took into account the Renewable Energy Sector Board Plan. The public statement of the Consumer Trustee's reasons for its authorisation decision for each project outlines how the Plan was taken into account and is available on AEMO Services website.</p> <p>The Consumer Trustee took into account the Renewable Energy Sector Board Plan in its Final 2023 IIO Report published 21 December 2023 in considering supply chain constraints .</p> <p>The Consumer Trustee takes the Renewable Energy Sector Board Plan into account throughout the LTESA tender process and is reflected in the Tender Guidelines and Tender Rules. Merit Criteria 7 (Merit Criteria 8 in Tender Round1) reflect the requirements set out in the Renewable Energy Sector Board Plan. Under these criteria, Proponents are required to submit an Industry and Aboriginal Participation Plan which contains the Renewable Energy Sector Board requirements.</p> <p>Commitments provided by Proponents are legally binding and subject to contractual monitoring and enforcement. Under the PDA and LTESA, project counterparties must provide regular reports on the PDA and LTESA to the SFV. Failure to meet targets can result in escalation, the implementation of agreed plans to realign with commitments, or termination of the LTESA.</p>

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	Section 9(3)-(4)	To give effect to the plan, the Consumer Trustee may include a recommendation (under section 31(1)(a)) to the Minister and impose a condition on an authorisation (under section 31(1)(b)).	The Consumer Trustee has authorised the recommended network operators to carry out the Main and Enabling CWO projects. It also decided not to impose conditions on these authorisations to give effect to the Renewable Energy Sector Board Plan. A public statement of reasons for this decision for each project is available at AEMO Services' website .
Application for declaration of renewable energy zone	Section 21(1)(b)	The Consumer Trustee may apply to the Minister for a declaration of a renewable energy zone.	The Consumer Trustee did not exercise this function in FY24 as it did not identify a need for further REZs, beyond the five already declared REZs in NSW.
Fees for access schemes	Section 26	<p>Determine the fees payable to the Scheme Financial Vehicle by participants in an access scheme.</p> <p>As a part of making this determination, the Consumer Trustee is to take into account the following principles:</p> <ul style="list-style-type: none"> a) maximising financial value for NSW electricity customers, b) recovering the cost of the operation of the access scheme, c) optimal use of the existing and planned network infrastructure in the renewable energy zone, d) other principles prescribed by the regulations. <p>EII Regulation, clause 55A prescribes an additional principle of transparency in total determined or expected fees payable under the access scheme for participants.</p>	<p>The Consumer Trustee did not exercise the functions contained in section 26(1) in FY 2023-24.</p> <p>The exercise of this function is linked to the grant of Access Rights under a REZ Access Scheme Declaration.</p> <p>The Infrastructure Planner is conducting a tender for Access Rights for CWO REZ following the publication of the CWO REZ Access Scheme Declaration. The Access Fee Guidelines, draft Determination and draft Access Fee Calculator for CWO REZ were published in April 2024. It is anticipated that the Access Fees for Access Right Holders in CWO REZ will be determined in September 2024 coordinated with the grant of Access Rights by the Infrastructure Planner.</p> <p>The Consumer Trustee is conducting a tender for Access Rights for SW REZ following the publication of the SW REZ Access Scheme Declaration, to make recommendations to the Infrastructure Planner on the grant of Access Rights. The Access Fee Guidelines, draft Determination and draft Access Fee Calculator for SW REZ were published in May 2024. It is anticipated that the Access Fees for Access Right Holders in SW REZ will be determined in January 2025 coordinated with the grant of Access Rights by the Infrastructure Planner.</p> <p>It is anticipated that an Access Scheme Declaration for HCC REZ will be made in FY25, and that Access Fees will be determined in FY26.</p>

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Function area	Ref ⁶	Function	Comments
	Section 26(2)-(3)	The fees must include a component that is to be used for a community purpose prescribed by the regulations and the component must not be less than the minimum or exceed the maximum amount prescribed by the regulations.	This function has not been exercised in FY24. However, the Access Fee Guidelines published for SW REZ and CWO REZ include a reference to this component in the fee methodology.
	Section 26(4)-(5)	The fees must include a component that is to be used for an employment purpose prescribed by the regulations and the component must not be less than the minimum or exceed the maximum amount prescribed by the regulations.	This function has not been exercised in FY24. However, the Access Fee Guidelines published for SW REZ and CWO REZ include a reference to this component in the fee methodology.
	Section 26(6)	When exercising its function under 26(4), the Consumer Trustee is to seek advice from the committee established under section 34W(1)(b) of the <i>Energy and Utilities Administration Act 1987</i> .	This function has not been exercised in FY24. However, the Consumer Trustee has contacted the Employment Purpose Advisory Committee as required under section 26(6) in establishing the Access Fee methodology under the Access Fee Guidelines published for SW REZ and CWO REZ.
Assessment of REZ network infrastructure projects	Section 30(4)	The Consumer Trustee must specify a time period that the Infrastructure Planner must make a recommendation within.	The Consumer Trustee did not exercise this function in FY24 as it did not consider it was necessary to require the Infrastructure Planner to provide recommendations within a specified timeframe.
	Section 31(1)	The Consumer Trustee must consider the recommendations by the Infrastructure Planner about REZ network infrastructure projects required for the renewable energy zone. After considering the Infrastructure Planner's recommendations in relation to REZ network infrastructure projects, the Consumer Trustee may: a) recommend the Minister give a direction under section 32 to a network operator for a REZ network infrastructure project, or	The Consumer Trustee received a recommendation from the Infrastructure Planner for two REZ network infrastructure projects in the CWO REZ (the Main CWO and Enabling CWO projects) on 22 December 2023. The Infrastructure Planner's public recommendation report can be found on its website . The Consumer Trustee has authorised the recommended network operators to carry out both the Main and Enabling CWO projects under section 31(1)(b), adopting a process and approach generally consistent with the NAPAP. A public statement of reasons for this decision for each project is available on AEMO Services' website . Consequently, the Consumer Trustee did not exercise its function under section 31(1)(a) to recommend that the Minister direct a network operator to carry out a REZ network infrastructure project in FY24, as the only recommendations it received from the Infrastructure Planner were in respect

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		b) authorise a network operator to carry out a REZ network infrastructure projects	of the Main and Enabling CWO REZ projects which it decided to authorise under section 31(1)(b). During FY24, the Consumer Trustee has also engaged regularly with the Infrastructure Planner on its plans for future recommendations, including for HCC and NE REZ.
	Section 31(2)	If the Consumer Trustee authorises a network operator under subsection (1)(b) above, the Consumer Trustee must, by written notice to the Regulator, set a maximum amount for the prudent, efficient and reasonable capital costs for development and construction of the REZ network infrastructure project that may be determined by the Regulator under section 38(4).	In addition to authorising the Main CWO and Enabling CWO projects, the Consumer Trustee set a maximum capital cost amount for these projects by written notice to the Regulator (the AER), as described in the public statement of reasons for each project, available on AEMO Services website .
	Section 31(3)	The Consumer Trustee must not disclose the above maximum amount to any person.	The Consumer Trustee has not disclosed the maximum capital cost amount for the Main CWO and Enabling CWO projects to any person, other than the Regulator, in accordance with this requirement.
	Section 31(5)	In exercising its functions under section 31, the Consumer Trustee is to consider the development pathway contained in the latest report by the Consumer Trustee under section 45.	The Consumer Trustee considered the development pathway contained in the Final 2023 IIO Report in deciding to authorise the recommended network operators to carry out the Main CWO and Enabling CWO projects. The public statement of the Consumer Trustee's reasons for its authorisation decision for each project outlines how the development pathway was considered and is available on AEMO Services website .
Regulator reviewing determinations	Section 40(1)(b)	The Consumer Trustee can direct the Regulator to remake a determination under section 38 at any time (in accordance with the regulation).	The Consumer Trustee did not exercise this function in FY24 as it did not consider it was necessary for the Regulator to remake a determination under section 38.
Infrastructure investment objectives report	Section 45(1)	The Consumer Trustee is to prepare a report about the infrastructure investment objectives that contains: a) the development pathway for the infrastructure to which Part 6 applies that is required to be constructed over the following 20 years to achieve the	The Consumer Trustee published its Final 2023 IIO Report on 21 December 2023. The report set out a development pathway and ten-year competitive tender plan generation and long-duration storage infrastructure. The report includes a development pathway for firming infrastructure but did not include a tender plan for this infrastructure, in the absence of a direction from the Minister to conduct further firming infrastructure tenders, and following the completion of Tender Round 2 for firming infrastructure.

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Function area	Ref ⁶	Function	Comments
		<p>infrastructure investment objectives, and</p> <p>b) a plan for the competitive tenders that the Consumer Trustee will conduct during the following 10 years to give effect to the development pathway, including when tenders will be conducted and the classes of LTES agreements for which a tender will be conducted, and</p> <p>c) other matters prescribed by the regulations.</p>	<p>The Consumer Trustee expects to begin consulting on its 2025 IIO Report in FY 25.</p>
	Section 45(2)	<p>The report must be prepared:</p> <p>a) as soon as practicable after the commencement of this section, and</p> <p>b) every 2 years after the first report.</p>	<p>The 2021 IIO Report was published on 7 December 2021. The 2023 IIO Report was published on 21 December 2023. On 12 December 2023, amendments to section 45(2) of the Act came into force, which provided that the IIO Report would be published approximately every 2 years after the first report.</p>
	Section 45(3)	<p>The Consumer Trustee is also to prepare a report as soon as practicable after being directed by the Minister under section 47(2) to conduct a competitive tender for LTES agreements for firming infrastructure.</p>	<p>The Consumer Trustee has not exercised the function under section 45(3) in FY24 as it has not been directed by the Minister to conduct a further competitive tender for firming infrastructure LTESAs under section 47(2).</p>
	Section 45(4)	<p>The regulations may prescribe the matters that the Consumer Trustee is to take into account in preparing the report.</p>	<p>Appendix C of the Final 2023 IIO Report notes how the report addresses each of the regulatory requirements in the EII Regulation for IIO Reports.</p>
	Section 45(5)-(6)	<p>The report is to be published on the Consumer Trustee's website.</p> <p>The Consumer Trustee is to exercise its functions under Part 6 on the basis of the reports prepared under section 45.</p>	<p>The Final 2023 IIO Report was published on AEMO Services website on 21 December 2023. The Consumer Trustee conducted three competitive tenders in FY 2023-2024, as noted in comments for section 47(1). Each of these was conducted on the basis of the Consumer Trustee's IIO Reports.</p>
Tendering for LTES agreements	Section 47(1)	<p>The Consumer Trustee must conduct a competitive tender for LTES agreements unless the Regulator otherwise authorises generally or in a particular case.</p>	<p>The Consumer Trustee conducted three competitive tenders in FY 2023-2024. Tender Round 2 is for firming infrastructure was finalised in November 2023. Tender Round 3 for generation and long-duration storage infrastructure was finalised in December 2023. Tender Round 4 for generation infrastructure commenced on 31 October 2023 and was finalised in late June 2024. Detailed documentation for tenders is available on AEMO Services' website.</p>

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Function area	Ref ⁶	Function	Comments
	Section 47(2)	The Consumer Trustee must not conduct a competitive tender for LTES agreements for firming infrastructure unless directed by the Minister.	At the direction of the then Minister issued 1 August 2022, under section 47(2), the Consumer Trustee conducted a competitive tender for LTES agreements for firming infrastructure. The tender commenced 3 April 2023 and was finalised in November 2023.
	Section 47(3)	The Consumer Trustee must carry out a competitive tender in accordance with the regulations and with the rules made by the Consumer Trustee.	<p>The Consumer Trustee conducted three competitive tenders in FY 2023-2024 under section 47(3) in accordance with the EII Act and its regulations.</p> <p>The Consumer Trustee undertook extensive engagement and consultation for the tenders to ensure their competitiveness. Tender documentation including Tender Rules, Tender Guidelines, template contracts and Market Briefing Notes are available on the Consumer Trustee's website. Public interactive webinars were held to provide education and information for Proponents.</p>
	Section 47(5)	<p>Before conducting a competitive tender, the Consumer Trustee must make rules that are consistent with the regulations to deal with the following matters:</p> <ul style="list-style-type: none"> a) the eligibility criteria for making a tender bid, b) the notification of the opening of the competitive tender, c) the procedure for making a tender bid, including the information required to be included in a bid, d) the fee payable for making a bid and requirements for bonds or other security, e) the assessment of a tender bid by the Consumer Trustee, f) other matters the Consumer Trustee considers necessary, g) other matters prescribed by the regulations. 	The Consumer Trustee exercised this function during the compliance period and the updated Tender Rules were published in Government Gazette No 171 on 10 May 2024.

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Function area	Ref ⁶	Function	Comments
	Section 47(6)	Before making rules, the Consumer Trustee is to consult with the Regulator.	The Consumer Trustee exercised this function during the compliance period. Consultation with the Regulator concluded on 8 April 2024 and the outcome of the consultation was published on AEMO Services website .
	Section 47(7)	The rules are to be published in the Gazette	The Consumer Trustee exercised this function during the compliance period and the updated Tender Rules were published in Government Gazette No 171 on 10 May 2024.
Recommendations about LTES agreements	Section 48(1)-(2)	The Consumer Trustee must make recommendations to the Scheme Financial Vehicle about the LTES agreements that the Scheme Financial Vehicle may enter into. In making a recommendation, the financial value of LTES agreements is to be the primary consideration.	<p>The Consumer Trustee did exercise the functions contained in section 48(1) and (2) during FY 2023-2024.</p> <p>On 6 November 2023, 6 December 2023 and 24 May 2024, the Consumer Trustee made formal recommendations to SFV to enter into certain Project Documents, in accordance with EII Act, section 48(1). As set out in the Tender Rules and Tender Guidelines Section 3 financial value is the primary consideration for the Consumer Trustee when assessing Financial Value Bids.</p>
	Section 48(3)	The Consumer Trustee must not recommend the making of an LTES agreement that relates to generation infrastructure specified in section 43(1)(a) that is not, or will not be, part of a renewable energy zone, unless the Consumer Trustee is satisfied that the LTES agreement shows outstanding merit.	<p>The Consumer Trustee did exercise the functions contained in section 48(3) during FY 2023-24. In Tender Rounds 3 and 4, an 'Outstanding Merit Assessment' in accordance with the requirements of section 48(3), and clause 26A of the Act's regulations, was undertaken on generation LTESAs relating to infrastructure that will not be part of a REZ.</p> <p>Tender Round 3 - By November 2023 the Consumer Trustee finalised its process and made its decision on projects and LTESAs to recommend to SFV. At the completion of Tender Round 3, the Consumer Trustee decided to recommend a generation LTESA for one project that will not be part of a REZ, having satisfied itself of the relevant requirements in the Act and regulations, including with respect to 'Outstanding Merit'.</p> <p>Tender Round 4 - By May 2024 the Consumer Trustee finalised its process and made its decision on projects and LTESAs to recommend to SFV. At the completion of Tender Round 4, the Consumer Trustee decided to recommend a generation LTESA for one project that will not be part of a REZ, having satisfied itself of the relevant requirements in the Act and regulations, including with respect to 'Outstanding Merit'.</p>

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Function area	Ref ⁶	Function	Comments
Terms and conditions of LTES agreements	Section 50(1)	The Consumer Trustee is to determine the terms and conditions of an LTES agreement, subject to any requirements prescribed by the regulations.	The terms and conditions of LTESAs were developed in accordance with section 50(1), (5) and (6).
	Section 50(5)	<p>In determining the terms and conditions of an LTES agreement, the Consumer Trustee is to take into account the following principles:</p> <ul style="list-style-type: none"> a) to align the financial incentives offered under LTES agreements with the changing needs of the electricity system, b) to adopt, to the maximum extent possible, the conventions and standards in relation to similar agreements in the national electricity market, c) to ensure that LTES agreements allow for future changes in the national electricity market, d) to ensure that LTES agreements are consistent with the risk management framework under Division 5, e) other principles prescribed by the regulations. 	Refer comments in section 50 (1) above.
Risk management framework	Section 51(1)-(3)	<p>The Consumer Trustee must prepare a risk management framework to protect the financial interests of NSW electricity customers in connection with the risks associated with LTES agreements.</p> <p>The risk management framework may provide for the functions of the Consumer Trustee, the financial trustee, the Scheme Financial Vehicle, and the Regulator under the framework and must be approved by the Regulator.</p>	<p>An approved Risk Management Framework was in place during FY24. No changes were made to the framework in FY24.</p> <p>The Risk Management Framework provides for the functions of all entities specified in 51 (2) as specified on page 3 of the Risk Management Framework published on the AEMO Services website.</p> <p>Evidence: On AER and AEMO Services websites: AER Website - Risk Management Framework AEMO Services Website - Risk Management Framework</p>

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Function area	Ref ⁶	Function	Comments
	Section 51(4)-(5)	The approved risk management framework ⁸ is to be published on the Consumer Trustee's website unless Consumer Trustee considers it is in the public interest not to publish a part of it, and the Consumer Trustee has the approval of the Regulator to not publish the part.	<p>An approved Risk Management Framework was in place during FY24. No changes were made to the framework in FY24.</p> <p>The Risk Management Framework provides for the functions of all entities specified in 51(2) as specified on page 3 of the Risk Management Framework published on the Consumer Trustee website.</p> <p>Evidence: On AER and AEMO Services websites: AER Website - Risk Management Framework AEMO Services Website - Risk Management Framework</p>
	Section 51(6)	The Minister may require the Consumer Trustee to amend the risk management framework in accordance with a recommendation by the Regulator arising from the review	N/A – Minister did not direct during the period.
	Section 51(7)	The Consumer Trustee must amend the risk management framework on the direction of the Minister	N/A – No direction from Minister during the period. Section 51(7) of the EII Act was repealed with effect from 12 December 2023.
Advise the Minister in relation to renewable energy zones	Section 60(4)(a)	The Consumer Trustee is to advise the Minister and the Infrastructure Planner in relation to proposed and declared renewable energy zones and proposed and required REZ network infrastructure projects.	The Consumer Trustee provided advice under section 60(4)(a) in FY 24 to EnergyCo, as Infrastructure Planner, in relation to proposed REZ network infrastructure projects in declared NSW REZs.

⁸ Approved by the Regulator

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Function area	Ref ⁶	Function	Comments
Negotiating in relation to LTES agreements	Section 60(4)(b)	The Consumer Trustee must negotiate with a person in relation to LTES agreements, in accordance with the regulations.	The Consumer Trustee exercised the functions contained in section 60(4)(b) during FY 2023-2024. The Consumer Trustee made formal recommendations to the Scheme Financial Vehicle to enter into LTESAs as a result of Tender Rounds 2, 3 and 4. In finalising the LTESAs and other project documents, highly limited departures in relation to those documents were accepted. The Consumer Trustee assessed that these departures did not have a material impact on the risk allocation in the contracts and were compliant with the requirements of the EII Act and EII Regulation.
Appoint financial trustee	Section 61(1)	The Consumer Trustee is to appoint a Financial Trustee	<p>The Consumer Trustee exercised the function contained in section 61(1) in FY 2022-23.</p> <p>On 15 September 2022, the Consumer Trustee appointed Equity Trustees Limited as the Financial Trustee following a competitive procurement (tender) process. Equity Trustees Limited incorporated the SFV on 16 September 2023.</p>
Suspension or termination of appointment	Section 68(1)-(3)	<p>The appointor⁹ may suspend or terminate the appointment of a person or body under this Part by giving written notice to the person or body.</p> <p>The appointor may suspend or terminate the appointment of a person or body only if an audit of the performance of the person or body carried out under section 67 finds incompetence, misconduct, or incapacity. Before terminating the appointment of a person or body under this Part, the appointor must:</p> <ul style="list-style-type: none"> a) advise the person or body in writing that the person or body's performance is unsatisfactory and the basis on which it is unsatisfactory, and b) provide the person or body with an opportunity to make submissions and consider the submissions received. 	The Consumer Trustee was not required to exercise the functions contained in sections 68(1)-(3) as at 30 June 2024.

⁹ Section 65 defines the Consumer Trustee as the appointor in relation to the appointment of the Financial Trustee

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Function area	Ref ⁶	Function	Comments
Annual reports	Section 70(1)	The Consumer Trustee must, as soon as reasonably practicable after the end of each financial year, provide the Regulator with a report on the exercise of functions under this Act during the financial year.	The Consumer Trustee exercised the functions contained in sections 70(1) in FY 2023-2024.
Delegation	Section 71(3)	The Consumer Trustee may delegate any of their functions, other than the power of delegation, to a person of a class prescribed by the regulations.	The Consumer Trustee did not exercise the right to delegate the functions contained in sections 71(3) as at 30 June 2024.
Advice and recommendations about network infrastructure projects	Clause 18 (s 60(4)(c) of the Act)	<p>The Consumer Trustee may, on request, provide a relevant person advice about a network infrastructure project.</p> <p>Relevant person includes the Minister, the Infrastructure Planner and the Energy Corporation.</p> <p>The Consumer Trustee may also give the advice to other relevant persons.</p>	The Consumer Trustee provided advice to EnergyCo under clause 18 of the EII Regulation in FY 24.
Recommendations by Consumer Trustee about network infrastructure projects	Clause 19 (ss 60(4)(c) and 66(5)(d) of the Act)	<p>The Consumer Trustee must not make a recommendation¹⁰ that the Minister give a direction under the Act¹¹, unless the Consumer Trustee is satisfied the direction is reasonably necessary to achieve the infrastructure investment objectives.</p> <p>A recommendation by the Consumer Trustee must include the recommended contractual arrangements. The Consumer Trustee is not required to assess or review these arrangements before including them in a</p>	<p>The Consumer Trustee did not exercise its function under section 31(1)(a) to recommend that the Minister direct a network operator to carry out a REZ network infrastructure project in FY24, therefore clauses 19(1), (1A) and (1B) of the EII Regulation are not relevant in FY24.</p> <p>The Consumer Trustee considered technical information, consistent with clause 19(2) of the EII Regulation in deciding to authorise the recommended network operators to carry out the Main CWO and Enabling CWO projects. The public statement of the Consumer Trustee's reasons for its authorisation decision is available on AEMO Services' website.</p>

¹⁰ Under section 31(1)(a) of the EII Act.

¹¹ Under section 32 of the EII Act.

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Function area	Ref ⁶	Function	Comments
		<p>recommendation.</p> <p>The Consumer Trustee is not required to consider technical information when considering the Infrastructure Planner's recommendations about a REZ network infrastructure project under the Act,¹² other than technical information:</p> <ul style="list-style-type: none"> a) specified in clause 44, and b) provided to the Consumer Trustee in the Infrastructure Planner's recommendation. 	
Authorisations	Clause 19A (2)-(3) (s60(4)(c))	<p>An authorisation by the Consumer Trustee under the Act¹³ must require the network operator to enter into the recommended contractual arrangements.</p> <p>The Consumer Trustee is not required to assess or review the recommended contractual arrangements before including them in an authorisation under subclause (2).</p>	<p>The Consumer Trustee's notices of authorisation for the Main CWO and Enabling CWO projects require the network operators for each of these projects to enter into the relevant recommended contractual arrangements, consistent with clause 19A (2) of the EII Regulations. The Consumer Trustee did not assess or review these contractual arrangements before including them in these authorisations consistent with clause 19A (3) of the EII Regulations.</p> <p>The notices of authorisation are available on AEMO Services' website.</p>
Transfer of network infrastructure	Clause 21 (2) (b) (s 42)	<p>If the Energy Corporation is the Infrastructure Planner in relation to the transferred network infrastructure, the authorisation provider¹⁴ must consider the Energy Corporation's recommendation before giving approval.</p>	<p>The Consumer Trustee did not exercise its function under clause 21 (2) (b) to approve a person to whom network infrastructure is transferred as being taken to be a network operator to whom the Act, Part 5, Division 3 applies. This is because no such transfer occurred or has otherwise been presented to the Consumer Trustee.</p> <p>The notice of authorisation for the Main and Enabling CWO projects provides for the potential future transfer of REZ network infrastructure project assets between authorised network operators under the existing notices of authorisation for these projects. The notices of authorisation are available on AEMO Services' website.</p>

¹² Under section 31 of the EII Act.

¹³ Under section 31 (1)(b) of the EII Act.

¹⁴ The Consumer Trustee is the authorisation provider if it has provided an authorisation under section 31 of the EII Act to carry out a REZ network infrastructure project.

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Function area	Ref ⁶	Function	Comments
Infrastructure investment objective reports	Clause 24 and 25 (s 45)	These clauses contain what the Consumer Trustee must include in the investment objective reports.	Appendix C of the Final 2023 IIO Report notes how the report addresses each of the regulatory requirements in the EII Regulation for IIO Reports.
Tendering for LTES agreements	Clause 26	This clause contains the way in which the Consumer Trustee must conduct a competitive tender.	Refer comments in relation to section 47(3) above.
LTES agreements recommendation	Clause 26A	This clause provides matters the Consumer Trustee must take into consideration when making a recommendation about LTES agreements.	Refer comments in relation to section 48(1), (2) and (3) above.
Competitive tenders for LTES agreements	Clause 28(1)(b) & (2) (s 47(3)(a))	The restriction on a person in making a tender bid in a competitive tender for an LTES agreement, where an access right for the infrastructure has already been conferred on the person under an access scheme, under Clause 28(1). Subclause (1)(b) does not apply if the Consumer Trustee is satisfied there are exceptional circumstances. The Consumer Trustee must specify the exceptional circumstances before conducting a competitive tender.	The Consumer Trustee did not exercise this function during the compliance period as there are no participants in an access scheme yet.
Tender rules	Clause 29	This clause prescribes further matters that the Consumer Trustee must deal with in making rules for a competitive tender.	The Consumer Trustee exercised this function during the compliance period and the updated Tender Rules were published in Government Gazette No 171 on the 10 May 2024. The updated Tender Rules have been published on the Consumer Trustee's website as part of the tender pack for each current and forthcoming tender.
Recommendations about LTES agreements	Clause 30 (s 48(4)(b))	The regulations prescribe the information the Consumer Trustee may include in a recommendation to the scheme financial vehicle under the Act. ¹⁵	The Consumer Trustee did exercise the functions Clause 30 (s 48(4)(b)). When assessing Bids and making recommendations to SFV in Tender Rounds 2, 3 and 4, the Consumer Trustee considered non financial merit criteria as

¹⁵ Under section 48 of the EII Act.

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Function area	Ref ⁶	Function	Comments
		When making a recommendation about an LTES agreement, the Consumer Trustee must take into account the non-financial value criteria for LTES agreements.	set out in Tender Rules and Tender Guidelines. In particular, Merit Criteria 3-8 (MC 8 applicable to firming infrastructure only) assess non-financial value characteristics of a Bid, which the Consumer Trustee took into account in deciding which LTESAs to recommend.
LTES agreement for generation infrastructure	Clause 31(b)	This subclause provides the matters the Consumer Trustee must be satisfied of for derivative arrangement that must be given to the LTES operator under an LTES agreement for the construction and operation of generation infrastructure.	The generation LTESA is an arrangement as described in clause 31(b). The Consumer Trustee was satisfied of the requirements in clause 31(b), and related requirements in clause 26(2A), with respect to the derivative arrangement in the generation LTESAs as at 29 September 2022. The derivative arrangement in the generation LTESA has not changed since that date.
Risk management framework	Clauses 32-33 (s 51(8))	Provides the requirements for the risk management framework	An approved Risk Management Framework existed during FY24. The Framework contains each of the requirements outlined in clauses 32 and 33. Refer comments in relation to section 51(1)-(3) above.
Contribution determination	Clause 39 (s 60(4))	The Consumer Trustee must, if requested to do so by the Regulator, provide information to the Regulator that the Regulator considers reasonably necessary to enable the regulator to make a contribution determination.	The Consumer Trustee exercised the functions contained in clause 39 during FY24. The Consumer Trustee submitted administration expenditure requirements in accordance with the requirements outlined in the AER 'NSW contribution determination guideline' document. During this process, there were some clarifying questions on the content included in the 'Basis of Preparation' document that supported the Consumer Trustees' contribution determination submission and further supporting evidence was provided to the satisfaction of the AER to enable a contribution determination to be made.
Functions of Consumer Trustee	Clause 42A (s 60(4))	The Consumer Trustee has the functions set out in this clause in relation to an access scheme if: a) the declaration for the access scheme provides for situations in which the	The Consumer Trustee is conducting a tender for Access Rights for SW REZ at the request of EnergyCo and following the publication of the SW REZ Access Scheme Declaration on 12 April 2024, to make recommendations to the Infrastructure Planner on the grant of Access Rights.

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Function area	Ref ⁶	Function	Comments
		<p>infrastructure planner may grant or increase an access right based on a recommendation from the consumer trustee, or</p> <p>b) the infrastructure planner requests the consumer trustee to conduct a competitive tender in relation to the granting or increasing of access rights under the access scheme.</p> <p>Subclause (2) sets out the requirements on the Consumer Trustee if either of the above applies.</p>	<p>The Consumer Trustee anticipates making a recommendation to EnergyCo on the granting of Access Rights under the SW REZ Access Scheme in December 2024.</p>
<p>Consultee for Revenue determinations</p>	<p>Clause 49(1A) and 49(3) (s 38(10)(a))</p>	<p>If a revenue determination relates to a REZ network infrastructure project, the Consumer Trustee is to be consulted by the Regulator.</p> <p>The Consumer Trustee must give the Regulator information about the amount notified to the Regulator under the Act¹⁶ that the Regulator considers necessary to make the revenue determination.</p>	<p>The Regulator did not make a determination related to a REZ Network infrastructure Project in FY24.</p> <p>Following the Consumer Trustee's authorisation of the Main CWO and Enabling CWO projects, the Regulator is expected to make a determination in FY25 and consult with the Consumer Trustee in advance of the determination.</p> <p>In FY24, the Consumer Trustee engaged extensively with the Regulator in relation to the interactions between the authorisation function and the Regulator's determination, in advance of the Consumer Trustee authorising the Main CWO and Enabling CWO Projects.</p>
<p>Consultee for review and remaking of revenue determinations for errors</p>	<p>Clause 54(2)(b)</p>	<p>The Consumer Trustee is to be consulted by the Regulator before the Regulator reviews or remakes a revenue determination for the purposes of correcting an error prescribed in subclause (1).</p>	<p>The Consumer Trustee was not consulted on the review or remake of a determination in FY24 as it understands the Regulator did not undertake such a review or remake in this period.</p>

¹⁶ Section 31(2) of the EII Act.

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Function area	Ref ⁶	Function	Comments
Applying for a cost recovery declaration.	Clause 54 C (1) &(3)(a)	The Consumer Trustee, as a 'relevant person' for the purposes of clause 54C, may apply to the Minister for a cost recovery declaration. The Consumer Trustee is to be consulted by the Minister before the Minister makes a cost recovery declaration.	The Consumer Trustee was not consulted on the making of a cost recovery determination in FY24 as it understands the Minister did not make such a cost recovery determination.
Fees for access schemes for employment purposes	Clause 57 (s 26)	The Regulations prescribe the components of a fee that are taken to be used for an employment purpose.	This function has not been exercised in FY24. However, the Access Fee Guidelines published for SW REZ and CWO REZ include a reference to this component in the fee methodology.
Consultee for annual audit plans		The Consumer Trustee, as an 'audit subject' for the purposes of Part 13 of the EII Regulation, is to be consulted by the Regulator if the Regulator proposes to audit the Consumer Trustee under the plan.	The Regulator (IPART) consulted with the Consumer Trustee in April 2024, and the Consumer Trustee provided a response to the Regulator.
Consultee for scope of audits		The Consumer Trustee, as an audit subject for the purposes of Part 13 of the EII Regulation, is to be consulted by the Regulator in determining the scope of the audit.	The Regulator (IPART) did not commence consultation on an audit scope in FY2023-2024.
Consultee for performance audit guidelines		The Consumer Trustee, as an audit subject for the purposes of Part 13 of the EII Regulation, is to be consulted by the Regulator in developing or reviewing the performance audit guidelines.	The Regulator (IPART) consulted with the Consumer Trustee in April 2024, and the Consumer Trustee provided a response to the Regulator.
Give information to the auditor		The Consumer Trustee, as an audit subject for the purposes of Part 13 of the EII Regulation, must, if requested to do so by an auditor, provide information to the auditor that the auditor considers reasonably necessary for the audit.	The auditor did not request for information that it considers reasonably necessary for an audit in FY2023-2024.

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Function area	Ref ⁶	Function	Comments
Consultee for audit reports		The Consumer Trustee, as an audit subject for the purposes of Part 13 of the EI Regulation, is to be consulted by the auditor before publishing an audit report.	The auditor did not commence consultation on an audit report in FY2023-2024.

For further information please contact:

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Consumer
Trustee

Supplement to NSW Consumer Trustee Section 70(1) Report

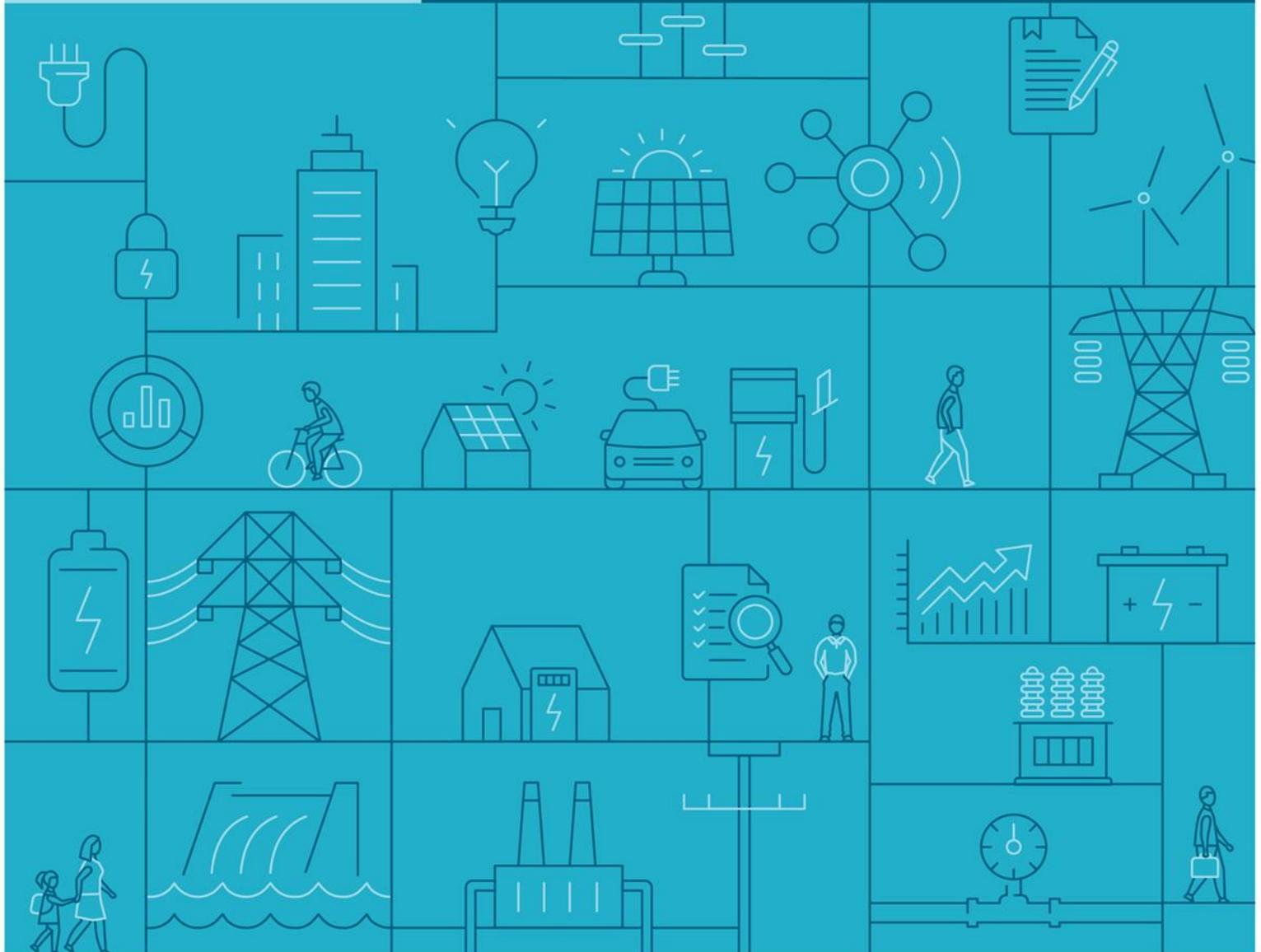
30 June 2024

Supplementary information request –
section 51(2) EII Act functions

Prepared by AEMO Services
Limited

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

We pay our respect to their Elders past and present.



Section 3 – Table 3 – Risk management roles and responsibilities conferred on Consumer Trustee (additional request from IPART)

This report is a supplement to the **NSW Consumer Trustee Section 70(1) report** as at 30 June 2024 (main report) and should be read in conjunction with that report.

Risk Management Roles - CT	CT Role / Responsibility – Risk Management Framework (RMF)	Comments
Designing the broader risk management framework	Design and approve the Risk Management Framework and subsidiary policies for implementation by the consumer trustee and scheme financial vehicle.	<p>The Risk Management Framework (RMF) provides for the functions of all entities specified in 51(2) as specified on page 3 of the RMF published on the AEMO Services website. Approval of the RMF was sought by the Consumer Trustee (CT) in accordance with section 51(3) and granted by the Australian Energy Regulator (AER) on 8 July 2022.</p> <p>Evidence: On AER and AEMO Services websites: AER Website - Risk Management Framework AEMO Services Website - Risk Management Framework</p> <p>The five subsidiary policies outlined in the RMF were designed by the CT and approved by the ASL Board, acting as the CT, during FY 2022-23. The five Scheme Financial Vehicle (SFV) subsidiary policies were subsequently approved by the SFV Board.</p> <p>A comprehensive review of the policies took place during FY 2024-25, with updated versions approved by the ASL Board, acting as the CT on 17 July 2024. The adoption of the updated policies by the SFV is in progress and a function of the SFV.</p>
	Determine the appropriate governance frameworks for LTES agreement, tender processes and risk management contracts.	<p>The gazetted Tender Rules and the ASL Board approved Tender Management Framework (TMF) establish the governance of Tender Rounds executed by ASL as the CT to support the delivery of infrastructure based on the IIO Report. The TMF:</p> <ul style="list-style-type: none"> • establishes the internal operations of Tender Rounds to ensure CT compliance with the EII Act and EII Regulation. • integrates the requirements of the RMF into the CTs decision-making. • covers key principles underpinning the tender process design, Products offered, governance considerations, including the tender documents/ Long-Term Energy Service Agreements

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Risk Management Roles - CT	CT Role / Responsibility – Risk Management Framework (RMF)	Comments
		<p>(LTESAs) / Project Development Agreement (PDAs) produced during each Tender Round and approval pathways, CT decision-making framework.</p> <p>The ASL Board approved version 2 of the TMF in May 2023.</p>
	<p>Develop and gazette LTES agreement tender rules.</p>	<p>The CT exercised this function during the compliance period and the updated Tender Rules were published in Government Gazette No 171 on 10 May 2024. Consultation with the AER concluded on 8 April 2024 and the outcome of the consultation was published on AEMO Services website.</p>
	<p>Consider and (where appropriate) approve variations in the scheme financial vehicle's subsidiary policies.</p>	<p>During FY2023-2024, the CT did not receive any considerations for significant variations in the SFV's subsidiary policies.</p> <p>As noted above, the five subsidiary policies outlined in the RMF were designed by the CT and approved by the ASL Board, acting as the CT, during FY 2022-23. The five SFV subsidiary policies were subsequently approved by the SFV Board.</p> <p>A comprehensive review of the policies took place during FY 2024-25, with updated versions approved by the ASL Board, acting as the CT on 17 July 2024. The adoption of the updated policies by the SFV is in progress and a function of the SFV.</p>
<p>Implementation of specific aspects of the Risk Management Framework</p>	<p>Determine the terms and conditions of the LTES agreements consistent with an overall approach to managing risks and costs in the long-term financial interests of NSW electricity customers.</p>	<p>Under the Board approved TMF, the CT approves:</p> <ul style="list-style-type: none"> • publication of final proforma LTESA terms and conditions for each Tender Round; and • final Bid-specific LTESA terms and conditions at the Decision Meeting related to Recommended Bids. <p>For Tender Round 2 ('Firming Tender'), the CT approved publication of two bespoke LTESA contracts, suitable for firming assets: 1) Firming Supply LTESA and 2) Demand Response LTESA.</p> <p>For Tender Rounds 3 and 4, a limited number of minor amendments were included in the published pro-forma documents which had arisen through the finalisation of documents in previous tender rounds, the need to accommodate hybrid project configurations and through feedback. These are considered to have no material impact on the SFV's risk allocation or financial position. The amendments are expected to reduce the level of negotiation that may be required or requested during the tender and enable the participation of hybrid projects which can provide additional benefits to NSW electricity customers.</p>
	<p>Assess, monitor, and manage the financial risks and the impact of LTES agreements on financial risks. Monitoring activities to provide</p>	<p>LTESA financial risk management pre-award</p> <ul style="list-style-type: none"> • The CT makes decisions which are a recommendation for award to the SFV for LTESAs following a tender round.

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Risk Management Roles - CT	CT Role / Responsibility – Risk Management Framework (RMF)	Comments
	<p>ongoing protection of the long-term financial interests of NSW electricity customers.</p>	<ul style="list-style-type: none"> The financial risk of LTESAs is a strategic consideration for the CT in its determination of the Financial Value recommended bids. This is evidenced in the CT Decision Report (Stage B which assesses Financial Value). <p>LTESA financial risk management post-award The SFV is responsible for managing and monitoring the financial risks under awarded LTESAs. The SFV reports regularly to the CT (by way of monthly management reports) on LTESA risks outlined in the RMF.</p>
	<p>Conduct competitive tenders for LTES agreements and REZ access rights (unless otherwise authorised by the regulator under section 47(1) of the EII Act).</p>	<p>The CT conducted three competitive tenders in FY 2023-2024 under section 47(3) in accordance with the EII Act and its regulations. Details of these are included in the NSW CT Section 70(1) report as at 30 June 2024.</p> <p>The CT undertook extensive engagement and consultation for the tenders to ensure their competitiveness. Tender documentation including Tender Rules, Tender Guidelines, Template Contracts and Market Briefing Notes are available on the CT's website. Public interactive webinars were held to provide education and information for Proponents.</p>
	<p>Negotiate, in accordance with any requirements prescribed by the regulations, with a person in relation to LTES agreements.</p>	<p>The CT exercised the functions contained in section 60(4)(b) during FY 2023-2024.</p> <p>The CT made formal recommendations to the SFV to enter into LTESAs as a result of Tender Rounds 2, 3 and 4. In finalising the LTESAs and other project documents, very limited departures in relation to those documents were accepted. The CT assessed that these departures, did not have any material impact on the risk allocation in the contracts and were compliant with the requirements of the EII Act and EII Regulation.</p> <p>Information on outcomes for tender rounds are published on the AEMO Services website.</p>
	<p>Review the financial trustee and scheme financial vehicle's performance in accordance with the instrument of appointment.</p>	<p>Performance Criteria under the Instrument of Appointment (IOA) means 'performance criteria notified to the SFV by, and finalised following consultation with, the CT'.</p> <p>The IOA has three 'condition subsequent' milestones. The FT provided reports against each of the milestones. The third milestone in relation to outsourcing was unable to be acted upon having regard to the legislated structure of the Roadmap and the operational capability required to manage SFV activities. Many SFV activities were not envisaged in the Roadmap original design.</p> <p>As a result, during FY 2023-2024 no consultation occurred with the CT on the Performance Criteria.</p>

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Risk Management Roles - CT	CT Role / Responsibility – Risk Management Framework (RMF)	Comments
		<p>The FT is obligated under the IOA to do all things within its power to procure that it receives adequate reporting from the SFV board to monitor whether the SFV has, promptly provided a report outlining the SFV’s performance against the Performance Criteria to the Financial Trustee (FT) and the CT.</p> <p>No Performance Criteria reports were received by the CT during the period. However, an explanation was received, and further updates were linked to the new SFV operating model stream of work to address the milestone.</p> <p>A new SFV operating model is in development, whereby the SFV can employ resources directly (requiring regulation change that is not in effect yet), and the role of the FT will be narrowed to core functionality. Revised IOA will be developed as part of this plan, including appropriate performance criteria to support the execution of the CT’s functions under the RMF.</p>
Reporting in relation to risk management	<p>Consider and approve the subsidiary policies of the scheme financial vehicle where the scheme financial vehicle subsidiary policies are not consistent with the subsidiary policies of the consumer trustee.</p>	<p>The CT did not receive any considerations for significant variations in the SFV’s subsidiary policies. The CT and SFV policies are consistent with the subsidiary policies of the CT.</p> <p>As noted above, the five subsidiary policies outlined in the RMF were designed by the CT and approved by the ASL Board, acting as the CT, during FY 2022-23. The five SFV subsidiary policies were subsequently approved by the SFV Board.</p> <p>A comprehensive review of the policies took place during FY 2024-25, with updated versions approved by the ASL Board, acting as the CT on 17 July 2024. The adoption of the updated policies by the SFV is in progress and a function of the SFV.</p>
	<p>Make recommendations to the scheme financial vehicle about the LTES agreements that the scheme financial vehicle may enter.</p>	<p>On 6 November 2023, 6 December 2023 and 24 May 2024, CT made formal recommendations to SFV to enter into certain Project Documents, in accordance with EII Act, section 48(1). As set out in the Tender Rules and Tender Guidelines Section 3 financial value is the primary consideration for the CT when assessing Financial Value Bids.</p>
	<p>Ensure that the scheme financial vehicle report on the net financial exposure of NSW electricity customers, and impacts on net financial exposure, is included in the audited statutory accounts of the scheme financial vehicle in accordance with the relevant Australian accounting standards.</p>	<p>SFV lodges the audited statutory accounts with Australian Securities & Investments Commission (ASIC) within timeframes. Ernst and Young (EY) are SFV’s external auditor, and they declare their independence as part of the annual financial audit.</p> <p>On 10 October 2023, SFV provided their Annual report to the CT that included the audited financial report for the period ending 30 June 2023. The annual report also includes financial impact and financial exposures.</p>

AEMO Services Limited

Risk Management Roles - CT	CT Role / Responsibility – Risk Management Framework (RMF)	Comments
	<p>Provide an annual compliance statement to IPART for the purpose of its annual reporting, including a summary of the performance of and any breaches under the Risk Management Framework, including any risk management contract.</p>	<p>On 16 August 2024, the CT exercised the functions contained in ss70(1) in FY 2023-2024 by providing its annual report to IPART. There were no breaches under the RMF, including any risk management contract to be reported to IPART.</p>

For further information please contact:

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