

## Part 5 of Electricity Infrastructure Investment Act 2020

The EUAA welcomes the opportunity to respond to the Department of Planning, Industry and Environment's Policy Paper on Network Infrastructure Projects (Part 5 of the Electricity Infrastructure Investment Act (2020)) (Paper) as part of the Electricity Infrastructure Roadmap consultation process.

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries. Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

We have been involved in all Roadmap consultation process through our membership of the NSW Consumer Reference Group and we appreciate the Department establishing this Group to assist their engagement.

Overall we have found the Roadmap engagement process frustrating and far from the best practice approach that we regularly experience in our engagement with electricity and gas networks. We acknowledge that the Government has passed legislation and is very keen that matters proceed very quickly for it to achieve the legislation's objectives. This means engagement will be truncated which reduces our level of confidence that the final outcome will be in the long-term interests of consumers.

We keep being told that the Department welcomes our feedback but find it difficult to see how that feedback is reflected in the Department's approach. The sequencing of engagement has been particularly frustrating as we are asked to comment on Policy papers issued in a sequence that does not provide the whole view of the governance framework but expects feedback on details that require an understanding of the governance framework.

We have constantly found it very difficult to respond to questions in all of the Papers because of the lack of both detail provided and context of where it fits into the overall framework. This Paper is no different to past papers - a lot of general statements, but is short on detail. For example, to provide the level of feedback the Department is requesting requires a lot more detail than that provided in Figure 4 for the authorisation process. For example, the Minister will have considerable directions powers but we are yet to see the details.

It was no surprise to us when we saw the results of the menti.com survey in the 4<sup>th</sup> November webinar on this Paper to the question "What are your first impressions of the funding/cost recovery pathways in terms of transparency and certainty for timeline delivery" – showed 'supportive' (3), 'unsupportive' (1), not sure/need more information' (25).

We found ourselves talking with other stakeholders to see if they were able to explain the missing parts to us. We found they had the same confusion as us and the same questions as us. Unlike some previous Policy papers, the Consumer Reference Group was not provided with a briefing prior to the deadline for submissions. We have been promised one after submissions are due. We have not been told how this this will assist our engagement. So our views in this submission can only be preliminary given they are based on incomplete information.

In past papers the Department has indicated that they will consult on the draft regulations that flow from this consultation. However, this is not mentioned in this Paper which does not provide guidance on next steps. What further engagement will occur prior to the Department developing the drafting instructions for the regulations? Will stakeholders have the opportunity to comment on those instructions? Will stakeholders have the opportunity to comment on the draft regulations? Or submissions to the various papers be published?

Therefore, we strongly support:

- Publication of all submissions to this and all Policy Papers soon after the close of submissions
- Stakeholder engagement on a consolidated version of all the Policy Papers so we have a transparent understanding of how all the parts fit together and much more detail on the governance framework including the consultation process the various parties e.g. Consumer Trustee and Infrastructure Planner will use as they implement the Roadmap
- Publication of, and consultation on, the drafting instructions that will be used to draft the regulations and then the draft regulations

This submission is in two parts:

1. Overall comments that do not fit neatly into the specific questions asked, and
2. Comments in the template on specific questions asked.

The Energy Infrastructure Roadmap is a significant policy that is likely to substantially increase the final bill paid by energy consumers. This increased bill may be justified but it is difficult to ascertain this based on current engagement or what we fear will be an opaque cost allocation and governance approach in coming years. We strongly urge the NSW Government and the Department to engage with stakeholders in a more meaningful way than is currently the case and for greater transparency in the years to come.

Do not hesitate to be in contact should you wish to discuss this further.



Andrew Richards  
Chief Executive Officer

## General Comments on the Paper

*We are still trying to understand how the Guiding Principle of ‘Consumer interest’ will work out in practice*

While it is one of the six Guiding Principles, we are given a range of comments on how it will be implemented if in conflict with any of the other five. This Paper variously refers to:

- to help drive the most efficient outcome for NSW consumers (p. iv)
- the Consumer Trustee’s duty to both deliver certain amounts of generation infrastructure over time as well as acting in the long-term financial interests of consumers (p.6)
- the Guiding Principle addressing key risks and barrier to network investment at the same time as delivering the lowest cost to NSW consumers (p. 10)
- the EII Act that balances timely implementation of network infrastructure development with the long-term financial interests of electricity consumers (p. 19)
- Infrastructure Planner only recommending network infrastructure solutions that can carry the local community, while protecting consumers’ financial interests as far as reasonably possible (p. 26)
- Network project scopes can be optimised to align with the long-term interests of consumers and host communities (p.27)
- The objects in the EII Act are broader than the National Electricity Objective e.g. objects to improve the affordability, reliability, security and sustainability of electricity supply as well as foster local community support, support local economic development, and create employment, including employment for Aboriginal and Torres Strait Islander people (p. 33)

*We have insufficient information to assess that the selection of projects will be in the long term interests of consumers*

As Figure 4 shows, the effectiveness of the Roadmap implementation will be very dependent on how the Consumer Trustee, Infrastructure Planner and Regulator work together. Mention is made of developing Guidelines but these are yet to be published for comment. It is very difficult to answer the engagement questions without those Guidelines so we hope a draft will be published for comment.

The desire to speed-up the process has meant that the RiT-T process of the national framework has been removed. It seems that the Infrastructure Investment Objectives Report will decide what REZ projects are required to be constructed over the following 20 years on some sort of net benefits methodology, recognising that ‘benefits’ will be more widely defined than is the case with AEMO’s ISP. It seems that once the Minister declares a REZ on the basis of the Consumer Trustees advice (based on the IIOR) the REZ will be built. The Infrastructure Planner will then recommend to the Consumer Trustee the final capex, sequencing, timing, funding, procurement and cost recovery of different options for the network infrastructure to deliver a REZ i.e. solely focus on costs and cost recovery.

Perhaps some consideration of whether the project still has net benefits will be considered again as part of the Consumer Trustee preliminary authorisation but there are no details provided on whether this is the case and, if so, how they will be considered e.g. no feedback loop type analysis as is conducted under the national framework.

All the Paper says is:

“...considerations by the Consumer Trustee in a preliminary authorisation would include whether the preliminary recommendation is best able to deliver in the long-term financial interests of NSW consumers out of the network solutions open to the Consumer Trustee, including having regard to the development pathways it has set.” (p. 23)

Two recent examples illustrate the concern our members have if there is no further consideration of net benefits after the IIOR:

- Project Energy Connect increased in capex from \$1.53b at the PACR (AACC Class 4 ie -15 to +50%) to an approved \$2.3b in the contingent project approval
- The Humelink PACR (July 2021) estimated Class 4 capex for the preferred option 3C at \$3,317m<sup>1</sup>, a nearly 250% increase compared with the PADR (January 2020) estimate of \$1,350m (Class 5 ie -20% to +100%).

The Paper briefly mentions the Network Authorisation Guidelines (p.25) and we look forward to the opportunity to engage on them as they are developed. Perhaps that will indicate more rigor in the Infrastructure Planner’s role. While the Consumer Trustee will determine the maximum amount the Regulator may determine a Network Operator can recover, it is unclear how this will occur and it seems that an updated measure of what role estimation of benefits (beyond that considered in the IIOR) will play. The Paper comments:

“The purpose of this provision is to clearly establish, but not to broadcast to bidders, the maximum capital cost envelope that is consistent with the Consumer Trustee’s assessment of what would be in the long-term interests of consumers to achieve the outcomes of the project. This constrains the Regulator not to approve a project where its costs exceed that envelope and keeps pressure on the Infrastructure Planner and prospective Network Operators to innovate and drive down costs to consumers.” (p.20)

We are told that the maximum cost will be ‘prudent, efficient and reasonable’. We have extensive experience in the AER’s approach to ‘prudent and efficient’. There is no guidance on how ‘reasonable’ is to be interpreted and whether it lessen the importance of the other two descriptors. There is no mention of assessing benefits against costs. And in any case the methodology will be confidential. We can understand the reasons for this in a competitive tender process but, given it seems the costs will be calculated without reference to benefits, consumers need to have some way of getting confidence that they will not be paying ‘over the odds’ for a project. In earlier submissions we have proposed a governance framework that provided for more direct consumer involvement (with appropriate confidentiality measures in place) in the Consumer Trustee’s activities.

The IIOR assessment, like AEMO’s ISP, is likely to be based on an AACE Class 5 cost estimate<sup>2</sup> given the detailed work around route, biodiversity costs etc has yet to be undertaken by the Infrastructure Planner. The level of transparency and consultation on the IIOR is not provided. In our submission on Part 6 we proposed a similar approach to what AEMO takes in the ISP e.g. published guidelines on how it develops the cost benefit analysis in

<sup>1</sup> Transgrid “Reinforcing the Southern Shared Network to increase transfer capacity to demand centres” (Humelink) PACR 29 July 2021 pp 15-16 <https://transgrid.com.au/what-we-do/projects/current-projects/Reinforcing%20the%20NSW%20Southern%20Shared%20Network/Documents/TransGrid%20HumeLink%20PACR.pdf>

<sup>2</sup> See [https://web.aacei.org/docs/default-source/toc/toc\\_18r-97.pdf](https://web.aacei.org/docs/default-source/toc/toc_18r-97.pdf)

the IOR, engagement best practice and a roles for a Consumer Panel. Details on the level of transparency and consultation on the work of the Infrastructure Planner are also not provided.

There is provision for the recovery of Infrastructure Planner costs from the Scheme Financial Vehicle is briefly discussed but there are no details of how this would work.

There is also provision for network ‘overbuild’ funding by the Scheme Financial Vehicle to:

“...enable the infrastructure planner to provide real options for future REZ network infrastructure projects at lower costs to consumers” (p.18)

But no details are provided on how this would work in practice to ensure it is in the ‘long term financial interests of consumers’, whatever that means.

*We are not convinced that the timetable for REZ development will be as short as implied in the Paper*

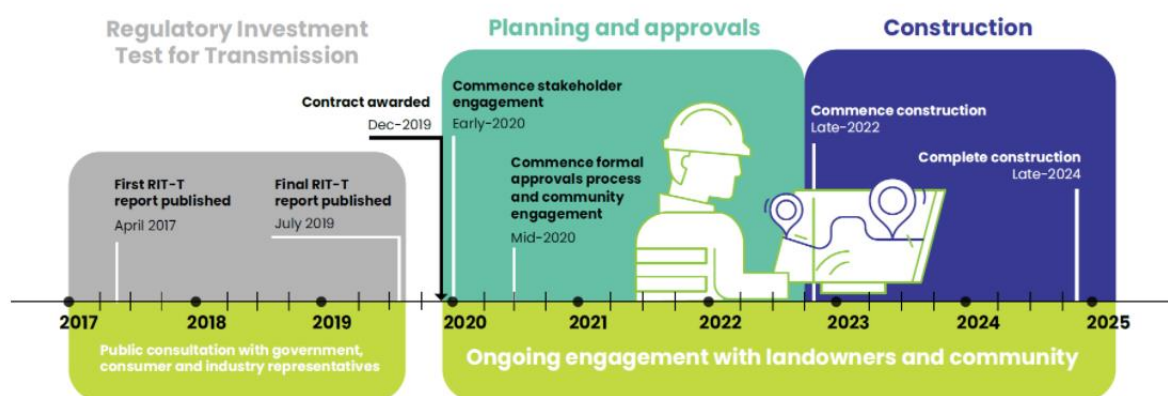
The factor driving the timetable for ISP projects (including REZs) is not the RiT-T process, but obtaining social licence. This can be illustrated by the example of the Western Victoria Transmission Network Project that has some similarities to the Roadmap process. AEMO completed the RiT-T process in July 2019 and then AusNet Services won the competitive tender for its construction. In the 2020 ISP, it was listed as<sup>3</sup>

“Committed ISP projects, already underway.

...

- Western Victoria Transmission Network Project, on track to be completed in two stages, by 2021 and 2025...”

The current projects’ Information Page has construction commencing in late 2022<sup>4</sup>.



But the October 2021 update in the FAQs page does not give a time for the commencement of construction. It says that the Environmental Effects Statement will continue ‘until around early- 2023’ which suggests that construction is unlikely to start before mid 2023<sup>5</sup>:

<sup>3</sup> AEMO 2020 ISP p.84 <https://aemo.com.au/-/media/files/major-publications/isp/2020/final-2020-integrated-system-plan.pdf?la=en>

<sup>4</sup> See <https://www.westvictnp.com.au/project-information>

<sup>5</sup> See <https://www.westvictnp.com.au/faqs>

**What is the timeline for the proposed WVTNP?**

We are now in the initial stages of planning, design and approvals, in particular the Environment Effects Statement (EES). We anticipate this will continue through until around early-2023.

The WVTNP requires both Victorian and Commonwealth Government approvals before construction can commence.

During this time there will be several opportunities for communities to have input into the process. The EES will be submitted in 2022 for formal public consultation and independent review. Construction timelines will be dependent on final approvals.

This changing timeline is due to the fierce opposition from local landowners to the proposed route<sup>6</sup>. Various proposals are being made to change the route and underground some parts, all of which may add considerably to capex. This is for a project that passed the RiT-T net benefits test based on a Class 4/5 capex established prior to the start of the AusNet consultation process.

We can understand why the Infrastructure Planner would undertake the social licence work prior to the competitive tender so that this is not an uncertainty facing bidders in responding to the tender. The Paper confidently states:

“To avoid delays that often arise under the national framework, the Department proposes that these preparatory activities and development works be undertaken by the Infrastructure Planner prior to the authorisation of a Network Operator to carry out a project.” (p.5)

without providing any information on why that should be the case. Again, it is not the national framework (which we presume refers to the RiT-T process) that causes the delays, it is the need to gain social licence. This need will be the same under the Roadmap as it is under the national framework. As we are seeing with the significant local opposition to the preferred route Transgrid and DPIE are proposing to connect the Central West Orana REZ to the existing grid<sup>7</sup>.

*There needs to be more information on the governance arrangement for the Infrastructure Planner’s costs of preparatory works*

In the absence of the State Government exercising compulsory acquisition powers, recent evidence suggests that social licence is gained by changing the route from that preferred by the network. This inevitably involves increased costs. The scope of work by the Infrastructure Planner is extensive and could be very costly if significant local opposition to what might be the ‘technical’ lowest cost route means an alternative route and perhaps undergrounding.

Under the Act the Minister is able to approve the Infrastructure Planner’s costs, but the process of how this will occur and how consumers will get confidence the costs are efficient, is not provided. Under the AER’s Guideline<sup>8</sup>

<sup>6</sup> Eg <https://www.abc.net.au/news/2021-08-23/victorian-coalition-proposal-backs-federal-labor-over-transmissi/13509970>

<sup>7</sup> See <https://www.theland.com.au/story/7411631/proposed-rez-electricity-network-route-option-sparks-fury/>

And <https://www.theland.com.au/story/7461852/alliance-continues-fight-amid-reshuffle-of-state-government/> and the petition from local landowners <https://www.change.org/p/help-farmers-protect-critical-agricultural-land-from-transgrid-s-high-voltage-power-lines>

<sup>8</sup> AER “Final Guidance Note – Regulation of Actionable ISP Projects” March 2021 <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/regulation-of-large-transmission-projects/final-decision>



these costs would be subject to AER scrutiny under an early works contingent project application. Consumers need to have confidence that these costs will be efficient.

*The Paper provides no evidence to support the assumption that there will be effective competition in bidding where the Infrastructure Planner decides to undertake a competitive market tender*

The Paper not only assumes that there will be competitive pressure but also suggests the number of players will be large enough to do a beauty parade to get a short list. We hope this is the case, but we are not confident. All the indications are that there will be large cost and skills pressures on construction activities over the coming decade and this will serve to limit competition.

Infrastructure Australia’s just published Infrastructure Market Capacity Report<sup>9</sup> highlighted potentially severe constraints in the availability of plant, labour, equipment and materials with constrain the economy’s ability to meet infrastructure demands. The more detailed supporting study on market capacity for transmission and generation projects highlighted these problems in the electricity network sector<sup>10</sup>. We would suggest that these resource constraints may limit the effectiveness of competitive tendering e.g. will there be enough skilled people? while there may be multiple bidders will they draw on the same pool of sub-contractors leading to little price differentiation?

The Paper does not provide any detail on the contractual arrangements that will underpin the tender process e.g. what costs above the bid price will the Network Operator be able to pass on if their costs exceed the bid costs? Will there be a pass-through process similar to that currently operating in the national market?

While it appears that:

“...most design decisions would be locked-in, including route selection, most substation locations, the project’s operational date, functional specifications and minimum technical or safety requirements. (p. 24)

The

“...network operator proponents may have discretion to vary specific aspects in their proposal such as the precise schedule of construction works, construction methodologies and some material or equipment used. Proposals may identify improvements through innovation in design or delivery of the network solution while meeting technical specifications” (p. 24)

While bids are to be ‘binding’, there may be an incentive to ‘pad’ the bid depending on the ability of the Network Operator to have a pass through of subsequent higher costs similar to the current Contingent Project Application process. For example, will the Infrastructure Planner provide an indemnity of social licence costs (including environmental costs) as part of the bid documents?

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<sup>9</sup> See <https://www.infrastructureaustralia.gov.au/publications/2021-infrastructure-market-capacity-report>

<sup>10</sup> See <https://www.infrastructureaustralia.gov.au/sites/default/files/2021-10/Market%20Capacity%20for%20Electricity%20Infrastructure%20211013.pdf>

We recommend (Q. 8) that the Infrastructure Planner and Regulator should have the ability to work together to assess whether a tender has in fact been competitive and produced a ‘prudent, efficient and reasonable’ bid. More than one bidder is a necessary, but not sufficient, condition for a competitive tender process.

*Need to ensure that Transgrid is not conflicted in its roles*

Transgrid has a number of roles:

- primary transmission network system provider in New South Wales (p. iv)
- Jurisdictional Planning Body (p. 5)
- the recommended Network Operator in circumstances where contestable provision may be unfeasible (p. 6)
- providing input into the Infrastructure Investment Objectives Report (p. 15)
- work with EnergyCo, AEMO and NSW DNSPs to develop the network strategy
- a bidder in the competitive tender to be a Network Operator

We look forward to the detailed Guidelines to ensure there are not actual or perceived conflicts across these various roles that gives Transgrid an unfair advantage in a tender process.

*We need more information on what happens when there is not a competitive process*

The Paper raises the case where development of a REZ requires augmentation of the existing shared transmission and distribution network (p.20) and suggests that a competitive process may not be appropriate in this instance.

But there is no detail on issues such as:

- Which entity is responsible for social licence?
- How will the REZ owner would interact with the connecting TNSP/DNSP – will there be detailed guidelines or is it a case by case situation?
- How would this additional capex and opex on the existing shared asset be recovered?

While we agree with the position (p.vi) that the incumbent TNSP/DNSP will not have the automatic exclusive right to be the Network Operator, there will need to be comprehensive protocols developed to ensure co-ordinated development of connected distribution and transmission assets.

*We look forward to more information on Priority Transmission Infrastructure Projects (PTIPs)*

The Paper discusses this issue for a full page (pp8-9) before telling us it is out of scope (p.9) and yet still asking for our feedback (p.7) but does not say when more detail will be published. The Paper says that the Minister can authorise or direct a Network Operator to carry out a PTIP. But:

“Before this, the Minister must consult with several stakeholders, including the Minister for Planning and Public Spaces, AEMO, the Regulator, and distribution businesses and TNSPs.” (p.7)



We have two comments related to the above

:

- include consumers in the consultation the Minister is required to undertake, and
- apply the same approach to identifying a PTIP to that used for REZs – preferred option and Network Operator

*There is a lack of information on important aspects of the cost recovery process*

There is only general, high level discussion of how this would work for augmentation and other works e.g. connection with the REZ, on the existing shared network system. For example, in the case of non-contestable projects:

- will the Regulator follow the AER Binding WACC Guideline? (we hope so)
- what capital will go into the RAB if the actual cost is above the cost set by the Infrastructure Planner e.g. will the existing AER Guideline on pass through of efficient costs apply (we hope so)
- what is the asset life (in the 4<sup>th</sup> November webinar DPIE did not specifically answer that question)?
- What about cost recovery of social licence costs associated with say a DNSP's works associated with a REZ?

There is provision for recovery in a range of ways – we look forward to the detail on how that will occur to ensure that consumers only pay the efficient level of those costs.

*We look forward to more information on how the Minister will exercise their powers*

The Minister has a range of powers under the Act. In some areas the Paper provides reasonable detail on what process the Minister is to follow in exercising those power e.g. Box 6, p.22 on directing a Network Operator to carry out a REZ network infrastructure project.

Under Section 66(4) of the EII Act, the Minister has the power to allow payments for early works from the Scheme Financial Vehicle in accordance with regulations under the Act. The Paper notes:

“Regulations are intended to be made regarding governance of the Minister’s powers under this section, including specifying the matters to which the Minister will have regard in determining these payments.”

But we are given no indication if when these will be developed and the level of consultation that will be done on them.

## Network Infrastructure Projects Policy Paper: Consultation submission form

This form is to be used to provide feedback on a series of questions included in the Network Infrastructure Projects Policy Paper to help inform the development of the regulations. The Network Infrastructure Projects Policy Paper considers detailed policy options to support Part 5 of the *Electricity Infrastructure Investment Act 2020* (NSW) (EII Act).

Please see the [Electricity Infrastructure Roadmap webpage](#) for more information.

### Consultation questions

You do not need to answer every question. Please answer the questions of interest to you.

Chapter numbers indicate the location of questions in the policy Paper.

Please make your submission by **5pm on Friday 12 November**.

### Confidentiality and submissions

Providing submissions is entirely voluntary, is not assessable, and does not in any way include, exclude, advance or diminish any entity from any future procurement or competitive process regarding the Electricity Infrastructure Roadmap, or any other NSW programs.

All submissions will be made publicly available unless the stakeholder advises the Department not to publish all or part of its submission. Authors may elect for some or all of their submission to be kept confidential. If you wish for your submission to remain confidential please clearly state this in your submission.

### Your details

Submission type	<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Organisation <input type="checkbox"/> Other Click or tap here to enter text.
Author name	Andrew Richards
Organisation	Energy Users Association of Australia
Author title	Andrew Richards, CEO
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Stakeholder group	<input type="checkbox"/> Generation or storage infrastructure provider <input checked="" type="checkbox"/> Electricity consumer or representative body <input type="checkbox"/> Network infrastructure provider

	<input type="checkbox"/> Energy retailer <input type="checkbox"/> Government or market institution <input type="checkbox"/> Individual <input type="checkbox"/> Other (please specify) <a href="#">Click or tap here to enter text.</a>
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## Questions

<b>Questions related to the guiding principles</b>	
<b>Question 1:</b> Do you agree with the proposed guiding principles? Are there additional principles that should be considered?	While we can agree with the general statements made in the guiding principles, the absence of any indication of (1) how they will be measured and (2) how they will be balanced when in conflict makes commenting difficult. For example, what if investors claim they need x, y and z to address the barriers to investment but this results in the risks of x, y and z being passed to consumers who are not best placed to bear that risk. Will the Consumer Trustee push back on investors and say 'you are best placed to bear that risk and you should bear it and price your bid accordingly?'
<b>Questions related to the classification of Renewable Energy Zone network infrastructure</b>	
<b>Question 2:</b> What are your views on the proposed approach to defining classes of network infrastructure?	We support the inclusion of Classes 1,2 and 3. We support the provision of system security services under the national framework. We are concerned that a separate NSW framework could lead to inconsistent standards and overlapping requirement all leading to higher costs for consumers. In which category is a BESS that provides both network support and system security?
<b>Question 3:</b> Are there any risks to the effective delivery of a REZ if the necessary system strength services are not included as a class of network asset under the EII Act?	We do not consider there are downside risks to consumers from the provision of system strength services not being an asset class under the EII Act.
<b>Question related to the funding and financing of preparatory activities and development works</b>	
<b>Question 4:</b> Does the proposed method appropriately balance the transparency of costs recovered through the Scheme Financial	We agree with the need for Energy Co/Infrastructure Planner to have a mechanism to fund its early development works and agree with the preparatory activities examples. However there is not enough

<p>Vehicle against the certainty needed to conduct preparatory activities and development works to deliver timely REZs?</p>	<p>information provided in the Paper to be able to answer the question so at this stage we answer no. All we are told (p.18) is that “Regulations are intended to be made regarding governance of the Minister’s power under this section, including specifying the matters to which the Minister will have regard in determining these payments”.</p> <p>The proposed development works can involve potentially significant costs e.g. land acquisition and determining future costs such as biodiversity. Land and biodiversity costs ranged from 24-44% for the options considered in the HumeLink PACR.</p> <p>So we have no idea about how these costs will be assess as ‘prudent, efficient and reasonable’. The AER’s Guidance Note for actionable ISP Projects has the TNSP applying for an early works CPA with the AER assessing whether the proposed amount in ‘prudent and efficient’. If the AER is going to be the Infrastructure Planner making the application of early funding, who assesses that the proposed expenditure is ‘prudent and efficient’?</p> <p>The Paper is full of general statements about how the process will work without details on what that will mean in practice eg p.19:</p> <p>“The EII Act aims to enable network infrastructure development in shorter timeframes than has been possible under the national framework, via a more coordinated approach that balances timely implementation with the long-term interests of electricity consumers. This may involve taking a longer- term view of the effective network project scope and design” We have no idea what this means.</p> <p>There is no detail on how the Infrastructure Planner is going to interact with Transgrid, Ausgrid, Endeavour and Essential which all have existing stakeholder management activities that underpin their social licence.</p>
<p><b>Question related to the funding and financing of preparatory activities and development works</b></p>	
<p><b>Question 5:</b> What information relating to network options do Long-Term Energy Service Agreement and access right tender participants require to provide sufficient certainty and</p>	<p>No comment</p>

confidence to participate in the bid processes?	
<b>Question 6:</b> What eligibility criteria should apply for Network Operators that may be authorised to carry out a REZ network infrastructure project?	No comment
<b>Question 7:</b> What factors should be considered by the Consumer Trustee in recommending that the Minister direct, and by the Minister in directing, a Network Operator to carry out a REZ network infrastructure project under the EII Act?	That the project is in the long term financial interests of consumers and that enduring net financial benefits are demonstrated.
<b>Questions related to the Transmission Efficiency Test and the Regulator’s determination</b>	
<b>Question 8:</b> How can consumer and stakeholder input be considered in the TET and revenue determination processes?	<p>This will depend on the level of competitive tendering used. The role for the TET will depend on the scope of the bid. We agree that the capex and opex in the TET should be no higher than the winning bid.</p> <p>At a general level we are very supportive of the current AER building block methodology and stakeholder engagement process in the propose response model e.g. opportunity for consumer and stakeholder consultations on the initial proposal and then draft decision/ revised proposal.</p> <p>To ensure that this framework can be applied, bids should require all components to be assessed in the TET – not just repayment schedules fro capex and opex and WACC.</p> <p>The Infrastructure Planner and Regulator should have the ability to work together to assess whether a tender has in fact been competitive and produced a ‘prudent, efficient and reasonable’ bid.</p>
<b>Question 9:</b> Is clarification required with regard to the principles to be taken into account by the Regulator and the Objects of the Act, and are there any additional principles that should be considered by the Regulator?	Given our discussion in the covering letter to this submission on the limits of competitive tenders in the current and forecast infrastructure project pipeline, consideration should be given to how the Regulator might assess if a competitive tender process has in fact occurred. If it judges it has not, then how might that affect the TET?
<b>Question 10:</b> What views do you have on these elements and is	See answer to previous question.

<p>there any other guidance that should be included in the TET Guidelines to be developed by the Regulator?</p>	
<p><b>Question 11:</b> Should financeability concerns be addressed in the NSW framework?</p>	<p>As the paper notes, the AEMC recently considered this issue concluding that the current regulatory framework does not give rise to financeability concerns and did not require the effective accelerated depreciation requested by Transgrid in its rule change.</p> <p>The way the question is framed seems to suggest that the NSW Government is being told by potential network investors that they do have financability concerns and they are ‘a barrier to network investment’ despite what the AEMC concluded. The problem in trying to answer the question is that the Paper provides no transparency on how it is proposed to assess these concerns. Our answer depends on knowing that detail. We do not want to say ‘yes’ and then find the concerns are addressed by moving risk/higher regulated WACC and consumers do not have access to the same robust process used by the AEMC in its review. But we expect that if we say ‘no’ it will happen anyway because barriers to network investment is a ‘guiding principle’.</p>
<p><b>Question 12:</b> What views do you have on these elements and is there any other guidance that should be included in the Guidelines regarding the revenue determination to be developed by the Regulator?</p>	<p>To the extent possible, we support drawing on the guidelines under Chapter 6 and 6A of the Rules</p>
<p><b>Question 13:</b> Are there any elements of the AER’s approach to assessing and setting regulated revenue requirements which should be modified or added to when considering the framework that will be applied under the EII Act in NSW?</p>	<p>We are a strong supporter of the current framework in Chapter 6 and 6A of the rules – building blocks, revenue cap based on prudent and efficient level of cost, treatment of inflation and company tax, binding WACC guideline, incentive mechanisms. There would need to be adjustments/additions to deal with contestability.</p> <p>We understand that the AER is about to start a review of incentive schemes so any changes resulting from this review should be incorporated in the NSW regulations</p>
<p><b>Question 14:</b> What do you think about an incentive scheme to ensure the availability of projects and the timely connection of generators to a REZ by Network</p>	<p>We remain to be convinced that network owners need yet another incentive scheme to ensure they do what they promise they will do when they win the competitive tender to build a REZ – which we presume will have various completion dates and associated liquidated</p>



<p>Operators? How could that be designed?</p>	<p>damages for failure to build and connect generators in a timely manner. The incentive to connect is provided by the avoidance of liquidated damages.</p>
<p><b>Questions related to reviewing a revenue determination</b></p>	
<p><b>Question 15:</b> Do you agree there should be limited circumstances in which the Consumer Trustee directs the Regulator to review and remake a revenue determination outside of the five-yearly cycle?</p>	<p>Yes</p>
<p><b>Question 16:</b> Do you agree with the proposed circumstances that the Regulator may adjust a revenue determination during the five-yearly cycle?</p>	<p>Yes – limited to the three circumstances that currently allow the AER to re-open a revenue determination.</p>
<p><b>Question 17:</b> Is there a need to clarify the process for transitioning of assets between the NSW and national frameworks?</p>	<p>Yes.</p> <ol style="list-style-type: none"> <li>1. Our impression is that the Roadmap regulations will be more generous to network operators than the AER’s national framework e.g. result in a higher WACC given potential investors concerns about barriers to network investment. So it is unclear why, for example, Transgrid would want to transition into a national framework and have its REZ investment incorporated into its AER regulated RAB</li> <li>2. A key issue will be asset value on transfer which will depend on assumed asset life and depreciation schedule adopted by the Regulator; it needs to ensure that capital is only recovered once</li> <li>3. The cost recovery method for the Roadmap differs from the DUOS/TUOS charges under the national framework – need to be clear about how 1 would translate into 2, including identification of winners and losers.</li> </ol>
<p><b>Question 18:</b> Is there a need to clarify the circumstances by which a transfer of network infrastructure from a Network Operator to another person may occur under the EII Act?</p>	<p>Yes</p>

## Supporting information

If you have additional information you would like to provide to support your views, please provide it here.

If you have additional documents to provide to support your views, please email it with your submission.

## Confidentiality and submission publication preferences

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- the Clean Energy Finance Corporation or the Australian Renewable Energy Agency or distribution network service providers
- the entities appointed or to be appointed under the EII Act (Consumer Trustee, Financial Trustee, Scheme Financial Vehicle and Regulator).

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