



Consumer
Trustee

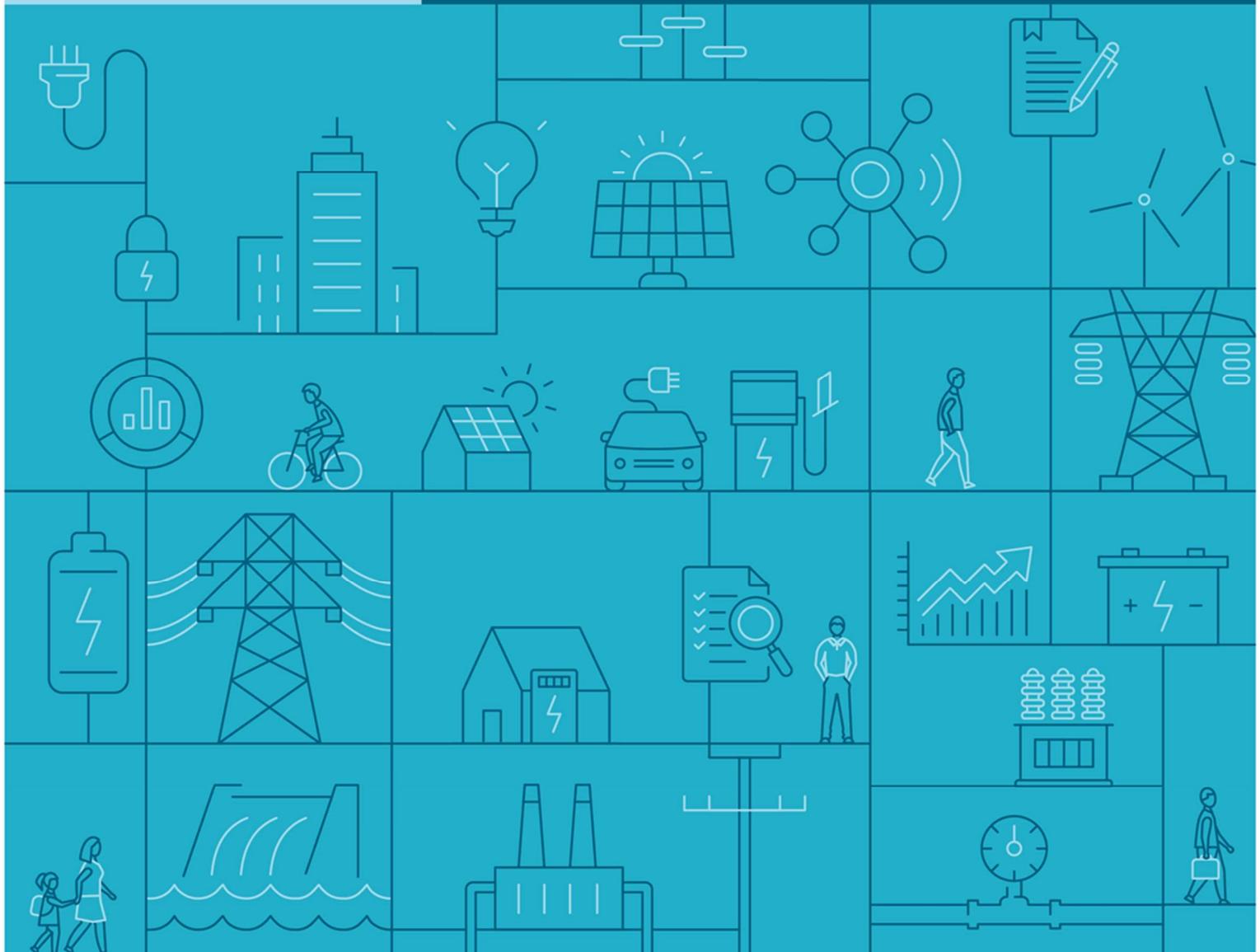
NSW Consumer Trustee Section 70(1) Report

2021-2022

The Consumer Trustee 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, present and emerging.

Prepared by AEMO Services
Limited



Document purpose and version

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 2022. 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 2022.

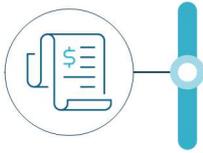
During FY22, the Consumer Trustee has sought to act independently and in the long-term financial interests of NSW electricity customers in the performance of its functions.

A high-level summary of the Consumer Trustee six key functions is described in Figure 1. The detailed report is grouped by the six key functions, with a section at the conclusion of the report which describes:

- other provisions in the EII Act on how the Consumer Trustee is to exercise its functions generally; and
- functions which are not directly connected with the six key functions.

Figure 1 Summary of Consumer Trustee key functions

	<p>Access Scheme Fees and Rights</p> <p>EII ACT section 26</p>	<ul style="list-style-type: none"> • Determine the fees payable by participants to the scheme financial vehicle (SFV) by access scheme participants taking account of the principles in section 26. • Seek the advice of the committee established under section 34W(1)(b) of the Energy and Utilities Administration (EUA) Act.
	<p>Renewable Energy Zone (REZ) Network Infrastructure Authorisation</p> <p>EII ACT section 31</p>	<ul style="list-style-type: none"> • Consider the recommendations by the infrastructure planner about renewable energy zones (REZ) network projects required for the REZ. • Either <ul style="list-style-type: none"> – Recommend the Minister to give direction under section 32 – Authorise a network operator to carry out a REZ network infrastructure project. • Set the maximum amount for the prudent, efficient and reasonable capital cost for development and construction of the REZ network infrastructure project. • Not disclose the maximum amount. • Consider the development pathway when exercising its functions under section 31.
	<p>Infrastructure Investment Objectives Reports (IIO)</p> <p>EII ACT section 45</p>	<ul style="list-style-type: none"> • Prepare every two years an Infrastructure Investment Objectives (IIO) Report containing: <ul style="list-style-type: none"> – A 20 year Development Pathway for the infrastructure that must be constructed to meet the IIOs. – A plan for competitive tenders that the consumer trustee will conduct over 10 years to give effect to the development pathway. – Any other matters prescribed by regulation. • Prepare a IIO Report for firming infrastructure if directed by the Minister • Publish the report on the consumer trustee’s website.
	<p>Long-Term Energy Service Agreements (LTESAs) and Competitive Tenders</p> <p>EII ACT section 47, 48 and 50</p>	<p>Tendering for Long-term energy service agreements (LTESAs)</p> <ul style="list-style-type: none"> • Conduct competitive tenders for LTESAs. • Conduct competitive tenderS for LTESAs for firming infrastructure if directed by the Minister. • Before conducting a competitive tender, make rules that are consistent with the regulations to deal with the matters set out in section 47(5). • Consult with the regulator on the rules and publish the rules in the Gazette. Recommendations • Make recommendations on LTESAs to the SFV to enter into the LTESAs: <ul style="list-style-type: none"> – with the primary consideration of the recommendation to be the financial value of the LTES agreements. – outside REZ recommendations only if the LTESA shows outstanding merit. <p>Terms of LTESAs</p> <ul style="list-style-type: none"> • Determine the terms of the LTESAs, subject to regulation requirements. • Take into account the principles in section 50(5) in determining the terms of an LTESA.
	<p>Statutory Risk Management Framework</p> <p>EII ACT section 51</p>	<ul style="list-style-type: none"> • Prepare and update a risk management framework to protect the financial interests of NSW electricity customers in connection with the risks associated with LTESAs.
	<p>Financial Trustee and Scheme Financial Vehicle Appointment</p> <p>EII ACT section 61</p>	<ul style="list-style-type: none"> • Appoint the financial trustee (FT) that is responsible for establishing, owning and administering the scheme financial vehicle (SFV).



s 26 Access scheme fees

About access schemes fees

The Consumer Trustee is responsible for determining the fees payable to the scheme financial vehicle by participants in an access scheme. A REZ access scheme is declared by the Minister. At the time of this report the draft Central-West Orana (CWO) REZ access scheme has been published for comment. Final declaration of the CWO REZ Access Scheme is a matter for the NSW Government, and is scheduled for FY23.

EII Act Function	Description of function activity	Status
Part 4 Renewable energy zones and access schemes		
26(1)	Determine fees payable to the scheme financial vehicle, taking into consideration the principles specified in s 26(1)(a-d)	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in section 26 in FY22, as at 30 June 2022. <p>Details:</p> <ul style="list-style-type: none"> The Consumer Trustee, in alignment with the draft CWO access scheme declaration, published a draft CWO access fee in July 2022. The final fee will be published in FY23 in line with Declaration of CWO Access Scheme.
26(2)-(3)	Include a component used for community purposes in fees and ensure the component is within the minimum and maximum amounts in the regulations	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in section 26 in FY22, as at 30 June 2022. <p>Details:</p> <ul style="list-style-type: none"> The regulation for defining the community and setting minimum and maximum amounts was made in August 2022. This function will be exercised at the same time as setting final CWO access fee when the Declaration is finalised in FY23.
26(4)-(5)	Include a component used for employment purposes in fees and ensure the component is within the minimum and maximum amounts in the regulations	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in section 26 in FY22, as at 30 June 2022. <p>Details:</p> <ul style="list-style-type: none"> The regulation for defining the employment and setting minimum and maximum amounts was made in August 2022. This function will be exercised at same time as setting final CWO access fee when the Declaration is finalised in FY23.
26(6)	Seek advice under section 34W(1)(b) EUA Act when setting fees	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in section 26 in FY22, as at 30 June 2022. <p>Details:</p> <ul style="list-style-type: none"> Section 34W Committee for the purpose of providing advice under section 26(6) was enlivened by the regulations made in August 2022. The Consumer Trustee will seek advice from the Committee in setting the employment component of CWO REZ Access fees prior to access fee determination in FY23.

KEY TO SYMBOLS

- Exercised function
- Failed to exercise function

- Continuing to exercise function
- Function not required for the period



s 31 REZ Network Infrastructure Authorisation

Our role in Renewable Energy Zone (REZ) Network Authorisation

The Consumer Trustee is responsible for independently deciding whether to authorise network operators to carry out REZ network infrastructure projects that have been recommended by the infrastructure planner and setting a maximum amount for the prudent, efficient, and reasonable capital cost for development and construction of REZ network infrastructure.

The Minister has declared two REZ under the Act: Central-West Orana (CWO) and New England. It is anticipated that Illawarra, South-West and Hunter-Central Coast REZs will be declared in due course.

Energy Corporation (EnergyCo) has been appointed as the infrastructure planner under the EII Act for the CWO REZ and the New England REZ.

EII Act Function		Description of function activity	Status
Part 4 Renewable energy zones and access schemes			
21(1)(b)	Apply for a declaration of a REZ (i.e, at the consumer trustee’s discretion)	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the function contained in section 21(1)(b) during FY22. The NSW Government is currently in the process of declaring the five REZs contemplated by the EII Act and the Consumer Trustee did not identify a need for any additional REZs. 	—
Part 5 Network infrastructure projects			
30(4)	Specify a time period that the infrastructure planner must make a recommendation within	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the function contained in section 30(5) during FY22. Under section 60(4) functions, the Consumer Trustee has been liaising with the infrastructure planner regarding the proposed timing of recommendations for future REZ network infrastructure projects. 	—
31(1), (5)	<p>Consider recommendations by the infrastructure planner</p> <p>Make recommendations to the Minister about or authorise a REZ network infrastructure project</p>	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in sections 31(1) and (5) during FY22, as development activities by the infrastructure planner were in progress but not yet complete. The Consumer Trustee anticipates it will be required to exercise this function in FY23 for the CWO REZ, once it has received a recommendation from the infrastructure planner regarding that project. <p>Details:</p> <ul style="list-style-type: none"> The CWO REZ was formally declared by the Minister and published in the NSW Gazette on 5 November 2021. The Consumer Trustee understands that the infrastructure planner is conducting various activities to be in a position to make a recommendation under section 31(1), including carrying out a competitive tender to select a network operator to recommend for CWO REZ. As at 30 June, this work was in progress. Following submission of the infrastructure planner recommendation, the Consumer Trustee will exercise its functions under section 31(1) and (5). During FY22, the Consumer Trustee was in regular dialogue with the infrastructure planner and the Office of Energy and Climate Change in connection with the CWO REZ network infrastructure activities, including providing input on the design of the policy and regulatory frameworks underpinning the authorisation process under Part 5 of the EII Act. The Consumer Trustee and the infrastructure planner have published the Draft Network Authorisation Guidelines which outline how the Consumer Trustee and the infrastructure planner intend to undertake their functions relating to REZ network infrastructure. <p>Draft network authorisation guidelines (MAY 22)</p>	—

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EII Act Function	Description of function activity	Status
	<ul style="list-style-type: none"> In addition to the CWO REZ, the New England REZ was declared in December 2021. The timing for the infrastructure planner to make recommendations regarding that REZ, and the other three REZs specified in the EII Act, is subject to EnergyCo’s preparation of the Network Infrastructure Strategy (expected in December 2022). 	
31(1)(a), cl 19	Not make a recommendation under section 31(1)(a) unless the direction is reasonably necessary to achieve the infrastructure investment objectives	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in cl 19 during FY22, as development activities by the infrastructure planner were in progress but not yet complete, and no recommendation was made under section 31(1)(a). 
31(2)	Set a maximum amount for the prudent, efficient and reasonable capital costs for development and construction of the REZ network infrastructure project	<ul style="list-style-type: none"> The Consumer Trustee did not determine a maximum amount for a REZ network infrastructure project during FY22, as the infrastructure planner did not recommend any projects to the Consumer Trustee. Following submission of the infrastructure planner recommendation under 31(1), the Consumer Trustee will exercise its functions under section 31(2). 
31(3)	Must not disclose the maximum amount to any person	<ul style="list-style-type: none"> The Consumer Trustee did not determine a maximum amount for a REZ network infrastructure project during FY22, as the infrastructure planner did not recommend any projects to the Consumer Trustee. In developing the methodology for calculating the maximum amount, the Consumer Trustee put controls in place such as confidentiality obligations to ensure that the maximum amount is not disclosed to any person. Controls will be reviewed and further developed as part of AEMO Services establishment of its enterprise compliance and risk management framework. 
31(5)	Consider the development pathway contained in the section 45 report	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in sections 31(1), (2), (3) and (5) during FY22, as development activities by the infrastructure planner were in progress but not yet complete. Refer to the details section for section 31(1) above. 
40(1)(b)	Direct the regulator to remake a determination of the amount payable to network operators	<ul style="list-style-type: none"> This function only applies when the regulator has made a determination under section 38. The regulator did not make a determination under section 38 during FY22. 
Part 8 Administration		
60(4)(a), cl 18	Advise the Minister and the infrastructure planner in relation to proposed and declared REZs and proposed and required REZ network infrastructure projects; Advise the Minister and the infrastructure planner about network infrastructure projects	<ul style="list-style-type: none"> At the infrastructure planner’s request, the Consumer Trustee provided advice in May 2022, which is intended to inform the infrastructure planner’s assessment of options (and ultimately its recommendation) regarding the CWO REZ network infrastructure project. In addition, the Consumer Trustee provided the infrastructure planner with a list of key issues that may impact the Consumer Trustee’s consideration of its recommendation regarding the CWO REZ and the Consumer Trustee’s authorisation decision. It was intended to help guide the development of a program of works to mitigate the risk that the infrastructure planner’s formal recommendation is not authorised by the Consumer Trustee in a timely manner. 

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s 45 Infrastructure Investment Objectives Report

About the Infrastructure Investment Objectives Report (IIO)

The IIO Report is a blueprint for electricity planning and delivery in NSW that is prepared by the Consumer Trustee.

The IIO Report is required to be prepared at least every two years. The Report sets out a 20-year Development Pathway and 10-year plan for conducting competitive tenders for long-term energy service agreements (LTESA's).

IIO Reports for firming infrastructure are prepared as soon as practicable after direction by the Minister for the Consumer Trustee to conduct a competitive tender for firming infrastructure.

EII Act Function	Description of function activity	Status
Part 6 Electricity infrastructure investment safeguard		
45(1) CI 24 and 25	Prepare a report about infrastructure investment objectives; that contains all specified inclusions	✓
45(1)(a)	20-year development pathway	✓
45(1)(b)	10-year plan for conducting competitive tenders	✓
45(1)(c)	Other matter prescribed by regulations	✓
45(2)	Prepare the report as soon as practicable and every 2 years after the first report	✓
45(3)	Prepare a report as soon as practicable after being directed by the Minister to undertake a competitive tender for firming infrastructure	⊖
45(4)	Prepare the report considering the matters prescribed in regulations	✓
45(5)	Publish the IIO Report on the Consumer Trustee's Website	✓

KEY TO SYMBOLS

✓ Exercised function
✗ Failed to exercise function

➔ Continuing to exercise function
⊖ Function not required for the period



s 46-50 Long-Term Energy Service Agreements

About Long-Term Energy Service Agreements (LTESAs)

The Consumer Trustee is responsible for conducting competitive tenders for long-term energy services agreements for projects located across NSW. Projects in and outside a REZ can bid for an LTESA.

LTESAs are financial derivative contracts that are intended to provide an energy project with mitigation against unexpectedly low electricity prices and exposure to upside where electricity prices are higher.

The LTESA achieves this by providing projects with a series of options to enter into fixed-length derivative arrangements. There are three LTESA products: generation LTESA, long-duration storage LTESA and firming LTESA.

EII Act Function	Description of function activity	Status
Part 6 Electricity infrastructure investment safeguard		
47(1)	Conduct a competitive tender for LTES agreements <ul style="list-style-type: none"> During FY22, the Consumer Trustee was preparing to exercise the functions contained in sections 47(1). Details <ul style="list-style-type: none"> The initial competitive tender for LTESAs will commence on 4 October. <ul style="list-style-type: none"> Announcement: First tender for new electricity infrastructure to open October 4 Draft documentation to assist bidders was released on 18 July 2022 and is on the Consumer Trustee website. <ul style="list-style-type: none"> Tenders Webpage 	→
47(2)	Only conduct a competitive tender for firming infrastructure if directed to by the Minister <ul style="list-style-type: none"> This function only applies when the Minister directs the Consumer Trustee to conduct a competitive tender for firming infrastructure under section 47(2). The Minister did not make a direction under section 47(2) during FY22. Details <ul style="list-style-type: none"> The Consumer Trustee received a direction from the Minister on 1 August 2022 and it is anticipated that a competitive tender for firming infrastructure will occur no later than Q4 FY23. 	—
47(3), cl 26	Carry out competitive tenders in accordance with regulations and rules made by the Consumer Trustee <ul style="list-style-type: none"> During FY22, the Consumer Trustee was preparing to exercise the functions contained in section 47(3). As at 30 June 2022 a competitive tender was not conducted under section 47(1) or 47(2). Details <ul style="list-style-type: none"> All required preparations are well progressed to carry out the competitive tender for LTES agreements under 47(1) in accordance with regulations and rules set by the Consumer Trustee under section 47(5) and in consideration of section 47(4). The Consumer Trustee has engaged in extensive consultation for competitive tender and LTESA design. <ul style="list-style-type: none"> Interactive Session - Competitive Tender Design, LTESA and REZ access rights (7-FEB-22) webinar-pack-tender-design-feb-2022.pdf An LTESA competitive tender market briefing series was released to market. <ul style="list-style-type: none"> Market Briefing One and Market Briefing Two The draft Tender Pack was released to market on the Consumer Trustee's website on 18 July 2022 containing the draft tender rules, draft tender guidelines and draft long-form contracts. <ul style="list-style-type: none"> Draft Tender Pack 	→
47(5)	Make rules for the competitive tender <ul style="list-style-type: none"> The tender rules for the competitive tender for LTES agreements were drafted and AER was consulted in FY22 as required under section 47(5) and consistent with the regulations to deal with the matters specified at 47(5)(a-g). 	✓

KEY TO SYMBOLS

Exercised function
 Failed to exercise function

Continuing to exercise function
 Function not required for the period

EII Act Function	Description of function activity	Status
	<p>Details</p> <ul style="list-style-type: none"> • Draft Tender Rules covering all required matters under 47(5) were subsequently released to market in July 2022 in the draft Tender Pack published on the Consumer Trustee's website. 	
47(6)	<p>Consult the regulator before making tender rules</p> <ul style="list-style-type: none"> • Prior to making the tender rules under section 47(5), the Consumer Trustee consulted with the regulator in accordance with section 47(6) to agree requirements and the consultation approach for the competitive tender for LTES agreements for the CWO REZ. • Feedback was received from the regulator on 8 March 2022. The feedback has been considered and incorporated into the rules where appropriate. • In its correspondence with the Consumer Trustee, the regulator noted that the rules are: <ul style="list-style-type: none"> – Comprehensive and provide a good level of detail to the market – Clearly lay out the legislated requirements. – Notes that the Consumer Trustee is to gazette tender rules before running a competitive tender. – Includes all the key design elements and the detail on each element with reference to the legislation and the regulations. <p>AEMO Services consultation with Australian Energy Regulator</p>	✓
47(7)	<p>Publish tender rules in the Gazette</p> <ul style="list-style-type: none"> • The Consumer Trustee did not exercise the function contained in section 47(7) during FY22, as at 30 June 2022 the tender rules for the competitive tender for LTES agreements were in draft and not yet ready for publication. <p>Note</p> <ul style="list-style-type: none"> • The tender rules will be gazetted in FY23 before commencement of the tender scheduled for 4 October 2022. 	-
48, cl 26A	<p>Make recommendations of the making of an LTES agreement to the scheme financial vehicle</p> <ul style="list-style-type: none"> • The Consumer Trustee did not exercise the functions contained in section 48(1), (2) and (3) during FY22, as this function only applies when a competitive tender is conducted pursuant to section 47(1) in accordance with section 47(3). 	-
46 50(1), (5), (6)	<p>Determine the terms and conditions of an LTES agreement.</p> <ul style="list-style-type: none"> • Section 46 sets out the requirements for an LTESA and this section has been included in the functional overview to evidence that these requirements have been taken into account by the Consumer Trustee as it has developed the LTESA terms and conditions. • The draft terms and conditions of LTESA were developed in FY22 in accordance with section 50(1), (5) and (6). <p>Details</p> <ul style="list-style-type: none"> • The commercial framework and design for LTESAs was finalised in accordance with defined regulations and principles specified in 50(1), (5) and (6), along with the design of the financial derivative product. • The LTESA term sheets for long-duration storage (LDS), generation and project development agreement (PDA) were developed and approved by the Consumer Trustee board in FY22. • Long-form contracts were released to market in July 2022 in the draft Tender Pack. The final long form contracts setting out the LTESA terms and conditions will be released prior to 4 October 2022 by the Consumer Trustee. <p>Draft Generation LTESA - Long-Form Contract (Jul 22)</p> <p>Draft LDS LTESA - Long-Form Contract (Jul 22)</p> <p>Draft PDA (Without Access Rights) - Long-Form Contract (Jul 22)</p>	→
60(4)(b)	<p>Negotiate, in accordance with any requirements prescribed by the regulations, with a person in relation to LTES agreements</p> <ul style="list-style-type: none"> • The Consumer Trustee did not exercise the functions contained in section 60(4)(b) during FY22, as this function only applies when a competitive tender is conducted pursuant to section 47(1). 	-



s 51 Risk Management Framework

About the Risk Management Framework

The Consumer Trustee is responsible for preparing and updating a risk management framework to protect the long-term financial interests of NSW electricity customers in connection with the risks associated with LTESAs.

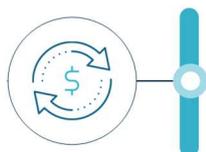
The Risk Management Framework provides for the functions of the Consumer Trustee, the financial trustee, the scheme financial vehicle and the regulator under the framework.

EII Act Function	Description of function activity	Status
Part 6 Electricity infrastructure investment safeguard		
51(1), cl 32-33	Prepare risk management framework. <ul style="list-style-type: none"> A risk management framework was prepared by the Consumer Trustee in accordance with section 51(1) which contains each of the requirements outlined in clauses 32 and 33. <ul style="list-style-type: none"> Risk Management Framework (JUL 22) 	FY22 FY23
51(2)	Provide for the functions of the consumer trustee, financial trustee, scheme financial vehicle and regulator under the risk framework <ul style="list-style-type: none"> 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. <ul style="list-style-type: none"> Risk Management Framework (JUL 22) 	FY22 FY23
51(3)	Obtain approval from the regulator for the risk management framework <ul style="list-style-type: none"> Approval of the risk management framework was sought by the Consumer Trustee in accordance with section 51(3) and granted by the regulator on 8 July 2022. 	FY22 FY23
51(4)	Publish the risk management framework on the Consumer Trustee's website <ul style="list-style-type: none"> The Consumer Trustee did not exercise the functions contained in section 51(4) during FY22, as at the 30 June 2022 the risk management framework was still in the final stages of development. <p>Details</p> <ul style="list-style-type: none"> The risk management framework was subsequently published on the Consumer Trustee website in July 2022. <ul style="list-style-type: none"> Risk Management Framework (JUL 22) 	FY22 FY23
51(5)	Not required to publish a part of the risk management framework if that part is not in the public interest or not approved by the regulator <ul style="list-style-type: none"> The Consumer Trustee made a determination not to exercise the functions contained in section 51(4) after an assessment of the risk management framework in consideration of section 51(5)(a-b). All parts of the risk management framework were published. A notice to this effect was included on page 2 of the statutory risk management framework. <ul style="list-style-type: none"> Risk Management Framework (JUL 22) 	
51(7)	Amend the risk management framework on the direction of the Minister <ul style="list-style-type: none"> This function only applies when the Minister directs the Consumer Trustee to amend the risk management framework under section 51(7). The Minister did not make a direction under section 51(7) during FY22. 	

KEY TO SYMBOLS

Exercised function
 Failed to exercise function

Continuing to exercise function
 Function not required for the period



s 61 Financial Trustee and Scheme Financial Vehicle

About the financial trustee and scheme financial vehicle

The Consumer Trustee is responsible for appointing a person or body as the financial trustee.

The Consumer Trustee is taking a proactive role in the establishment of the financial trustee and scheme financial vehicle to ensure both entities can carry out their functions and obligations under the Act as soon as feasible to support the first competitive tender for LTESAs.

EII Act Function	Description of function activity	Status
Part 7 Electricity infrastructure fund		
55(b)	Receive payment from the electricity infrastructure fund.	—
Part 8 Administration		
61(1)	Appoint financial trustee.	→
	<ul style="list-style-type: none"> The Consumer Trustee was still exercising the functions contained in section 61(1) during FY22, as discussions regarding the structuring of the scheme financial vehicle and the contents of the scheme financial vehicle constituent documents were ongoing with the State of NSW. <p>Details</p> <ul style="list-style-type: none"> Since 30 June 2022, the Consumer Trustee has finalised the form of the commercial and legal structures for the financial trustee and commenced due diligence. The procurement process to appoint a financial trustee progressed with the market sounding, an expression of interest (EOI) and a request for proposal (RFP) stages undertaken in FY22. The Consumer Trustee also undertook preparations to operationalise the financial trustee upon appointment to ensure it can carry out its functions and obligations as outlined in section 61(2). Appointment of the financial trustee is anticipated to occur in September 2022, prior to commencement of the LTESA tender. In addition, the Consumer Trustee has undertaken reasonable preparations to assist the financial trustee once appointed under section 61(1) to carry out its function and establish a scheme financial vehicle under section 62(1) that is fit to carry out its functions and obligations as outlined in section 62 and Part 7. 	
66(4)	Determine the amount to be paid by the scheme financial vehicle to the financial trustee.	—
68(1)-(3)	Suspend or terminate the appointment of the financial trustee.	—

KEY TO SYMBOLS

✓ Exercised function
 ✗ Failed to exercise function

→ Continuing to exercise function
 — Function not required for the period



Other functions of the Consumer Trustee

Other EII Act functions

EII Act Functions		Description of function activity	Status
Part 1 Preliminary			
3(3)	Act consistently with the Act	<ul style="list-style-type: none"> To the knowledge of the Consumer Trustee it has acted consistently with the EII Act during FY22, and it is not aware of any actions that are inconsistent with the Act. 	✓
4(4)-(5)	Consider guidelines about consultation and negotiation with the local Aboriginal community and impose conditions to give effect to the guidelines	<ul style="list-style-type: none"> The Consumer Trustee was not required to exercise the functions contained in section 4(4)-(5) during FY22, as at 30 June 2022 the Minister had not issue guidelines pursuant to section 4(1). <p>Details</p> <ul style="list-style-type: none"> Guidelines under section 4(1) were issued to the Consumer Trustee on 17 August 2022 and will be duly considered and given effect in the exercise of functions by the Consumer Trustee in FY23. <p>🌐 https://www.energy.nsw.gov.au/government-and-regulation/electricity-infrastructure-roadmap/first-nations-guidelines</p>	—
9(1), (3)-(4)	Consider the NSW renewable energy plan and impose conditions on authorisation that are consistent with the plan	<ul style="list-style-type: none"> The Consumer Trustee has not exercised this function during FY22, as the renewable energy sector plan has not yet been approved by the Minister under section 8(2). <p>Details</p> <ul style="list-style-type: none"> The Consumer Trustee has engaged and consulted with the renewable energy sector board during FY22 during the implementation phase of the Electricity Infrastructure Investment Roadmap. The Consumer Trustee understands that the plan will be issued shortly, and it will take the plan into account in the exercise of the Consumer Trustee functions in FY23. 	—
Part 8 Administration			
Clause 16I(1)(d), 16K, s 56	Provide information to the regulator relating to a contribution determination	<ul style="list-style-type: none"> The Consumer Trustee was not required to exercise the functions contained in clauses 16I(1)(d) and 16K in FY22, as the SFV was not established. The regulator must publish the contribution determination in the Gazette no later than 28 February before the beginning of the financial year that the contribution is to be applied – this is expected to be 28 February 2023. The Consumer Trustee is working with the regulator to establish the contribution determination framework and process. 	—
60(3), (5)	Act independently and in the long-term financial interests of NSW electricity customers	<ul style="list-style-type: none"> The Consumer Trustee through all its activities has been mindful of its obligation under sections 60(3) and (5) and has sought to act independently and in the long-term financial interests of NSW electricity customer. In addition, in FY22, the two statutory decisions that the Consumer Trustee made were: <ul style="list-style-type: none"> – the approval and publication of the infrastructure investment objectives report under section 45; and – the preparation of the risk management framework under section 51 (1) and approval by the AEMO Services Board on 30 June 2022. These decisions were made by the AEMO Services board, or under authorised delegations of the board, in its capacity as the Consumer Trustee. The board is independent from the NSW Government. The decision maker satisfied itself on a reasonable basis that the decisions were in the long-term financial interests of NSW electricity customers. 	✓

KEY TO SYMBOLS

✓ Exercised function
✗ Failed to exercise function

➔ Continuing to exercise function
— Function not required for the period

EII Act Functions		Description of function activity	Status
67(1)(a)	Have its performance audited by the regulator.	<ul style="list-style-type: none"> The Consumer Trustee was not required to exercise the functions contained in section 67(1) during FY22, as at the 30 June 2022 as the regulator did not request an audit of the Consumer Trustee's performance. The performance frameworks and audit program are not yet developed. 	—
Part 9 Miscellaneous			
70(1)	Provide the regulator with annual reports on the exercise of its functions	<ul style="list-style-type: none"> The Consumer Trustee was not required to exercise the function contained in section 70(1) in FY22, as FY22 constituted the first financial year of operation for the Consumer Trustee. This report is provided in FY23 and represents the first exercise of this function. 	FY22 — FY23 ✓
71(3)	Delegate its functions if permitted by regulations	<ul style="list-style-type: none"> The Consumer Trustee did not exercise the right to delegate any of its functions during FY22 as permitted in section 71(3). 	—

About the conferral of AEMO Services as the Consumer Trustee

AEMO Services is a subsidiary of AEMO¹ and was established to independently carry out the Consumer Trustee functions. It was incorporated on the 14 July 2021 as company limited by guarantee².

AEMO Services was required to satisfy several conditions prior to its appointment as the NSW Consumer Trustee becoming effective. The State of NSW notified AEMO Services that the conditions were satisfied and AEMO Services appointment as the Consumer Trustee became effective on 22 November 2021.

Clause 17 of the EII Act Regulations provides for the appointment requirements for the Consumer Trustee.

For the Consumer Trustee, these requirements are contained in AEMO Services constituent documents, being the AEMO Services constitution, the AEMO Services members agreement and the Consumer Trustee Instrument of Appointment between AEMO Services and the State of NSW.

Clause	Consumer Trustee requirement	Status as at 30 June 2022
17(1)	<ul style="list-style-type: none"> Company limited by guarantee 	✓
17(2)(a), (c)	<ul style="list-style-type: none"> AEMO as a member 	✓
17(b)	<ul style="list-style-type: none"> Not have any other members except the Commonwealth, the State of NSW or another State or Territory 	✓
17(c)	<ul style="list-style-type: none"> Subsidiary of AEMO 	✓
17(d)	<ul style="list-style-type: none"> Constitution which set out objects that are not inconsistent with the exercise of the functions of the Consumer Trustee; and the functions of the company's members 	✓
17(e)	<ul style="list-style-type: none"> Enter into an agreement with AEMO that deals with the governance arrangements of the company; and the provision by AEMO of services to assist the company in exercising its functions as the consumer trustee <p>Details:</p> <ul style="list-style-type: none"> Constitution and Members Agreement Master Services Agreement between AEMO and AEMO Services 	✓

¹ Clause 17(2)(a) and (c)

² Clause 17(1)

Priorities for FY23

AEMO Services, as the Consumer Trustee, will exercise its functions in FY23 in accordance with the obligations specified in the EII Act.

The following is a list of the expected Consumer Trustee functions and activities in FY23, as at the date of this report. This list is subject to change and is not intended to record all functions of the Consumer Trustee. Many of the functions of the Consumer Trustee are contingent upon other entities appointed under the EII Act undertaking their functions in accordance with the EII Act.

EII Act Function		Potential FY23 actions
24 25	Access fees	<ul style="list-style-type: none"> Finalise and determine the access fees for the CWO REZ Access Scheme
31(1)-(3)	REZ Authorisation	<ul style="list-style-type: none"> Authorise the CWO Renewable Energy Zone
4(5)	MMC	<ul style="list-style-type: none"> Set the MMC for CWO REZ projects
45(1)-(5)	IIO Reports	<ul style="list-style-type: none"> Prepare the draft 2023 IIO Report, including the: <ul style="list-style-type: none"> – 20-year development pathway and – 10-year plan for competitive tenders
45(3)	Firming IIO Report	<ul style="list-style-type: none"> Prepare and publish the 2022 Firming IIO Report
47	LTESAs and competitive tenders	<ul style="list-style-type: none"> Conduct competitive tender for LTES agreements in accordance with the IIO Report Prepare to conduct a competitive tender for firming infrastructure (date still to be agreed)
48	LTESA recommendations	<ul style="list-style-type: none"> Where appropriate, make recommendations to the scheme financial vehicle for LTESAs
50	LTESA T&Cs	<ul style="list-style-type: none"> Finalise the terms and conditions for the LTES agreements
61 65	Financial trustee appointment	<ul style="list-style-type: none"> Appoint a financial trustee to own and operate the scheme financial vehicle under section 61 of the NSW EII Act Monitor the operations of the financial trustee (once established) through a monthly and annual reporting and engagement process
49 - 58	Scheme financial vehicle	<ul style="list-style-type: none"> Establish a fit-for-purpose scheme financial vehicle and electricity infrastructure fund to carry out its functions upon appointment of the financial trustee, as required under sections 49 to 58 of the EII Act

For further information please contact:

AEMO Services Stakeholder Relations Team

stakeholderengagement@aemoservices.com.au