



Annual report on functions under the
Electricity Infrastructure Investment Act
2020 (NSW) for 2022-23

Report to the Minister

October 2023

Energy »

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Tribunal Members

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The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

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Chapter 1 »

Executive summary

01

The Electricity Infrastructure Roadmap (Roadmap)^a is the NSW Government's plan to transform the NSW electricity system into a system that is affordable, clean and reliable as ageing coal-fired power plants retire. The Roadmap is given effect through the [Electricity Infrastructure Investment Act 2020](#) (EII Act).

Under the EII Act, IPART must prepare an annual report on the exercise of functions by key Roadmap entities – the Consumer Trustee, the Infrastructure Planner, the Financial Trustee, and the Regulator. This is IPART's second annual report to the Minister for Energy (Minister). This report covers the 2022-23 financial year (FY 2022-23). It conveys information from the reports that the Roadmap entities have provided to IPART.

When we delivered our first annual report for FY 2021-22, the Roadmap was still in its infancy. The functions exercised by the appointed entities in that year were primarily undertaken to prepare for the delivery, and to establish the foundations, of the Roadmap. At the end of FY 2021-22, two key Roadmap entities – the Financial Trustee and the Scheme Financial Vehicle – had still not been established.

While the Roadmap is still largely in its planning and start-up phase, the Financial Trustee and Scheme Financial Vehicle have now been appointed, and all entities have told us that they progressed a number of key functions over FY 2022-23.

The Consumer Trustee conducted the first competitive tenders for Long Term Energy Service Agreements (LTESAs) for renewable generation to the grid and long-duration storage. So far, the Consumer Trustee has awarded LTESAs to 3 projects representing 1,395MW of renewable generation to the grid, as well as one long-duration battery energy storage system. The Consumer Trustee also conducted the first competitive tender for LTESAs for firming infrastructure which it expects to finalise in November 2023.

Over FY 2022-23, the then Minister appointed the Energy Corporation of NSW (EnergyCo) as the Infrastructure Planner for 3 additional zones including the South West REZ, Hunter-Central Coast REZ and the Illawarra REZ. The Infrastructure Planner delivered its Network Infrastructure Strategy, which supports the coordination of network infrastructure to connect new generation and storage in the 5 REZs. ACE Energy was selected by the Infrastructure Planner as the first-ranked proponent for the role of Network Operator for the Central-West Orana REZ. The Infrastructure Planner entered into a Network Operator Deed with Transgrid for the delivery and operation of Waratah Super Battery priority transmission infrastructure project.

Governance around the Roadmap funding arrangements and its cost recovery mechanisms were established and finalised over the course of FY 2022-23. The Consumer Trustee appointed the Financial Trustee following an open tender; the Financial Trustee subsequently established the Scheme Financial Vehicle; and the Scheme Financial Vehicle established the Electricity Infrastructure Fund (Fund) on 19 October 2022. The AER, as a Regulator, made the first contribution determination on 28 February 2023 to allow payments to be made from the Fund to cover the costs of implementing the Roadmap.

^a For the purposes of this report a reference to the Roadmap is a reference to the elements of the Roadmap that fall under the EII Act. We note there are other elements of the Roadmap that fall outside the EII Act (e.g. Pumped Hydro Recoverable Grants) which fall outside the scope of this report.

1.1 Approach to the report

As with the approach we took for the 2021-22 annual report, this annual report is a factual account of the functions exercised under the EII Act by the Roadmap entities in FY 2022-23. This now includes the Consumer Trustee, Infrastructure Planner, Financial Trustee and Regulator^b.

To support the annual reporting function, the Consumer Trustee, Infrastructure Planner and Financial Trustee are required under section 70(1) of the EII Act to provide IPART with a report on the exercise of their functions during FY 2022-23. Our report is based on the information provided by each entity in these reports, as well as additional information and points of clarification provided by each entity in subsequent correspondence. We will publish each entity's section 70(1) report on [IPART's website](#) when we publish this annual report.



The legislated timeframe, combined with the timing of receiving information from the entities, means that this annual report does not include further analysis and insight beyond the information the entities provided to us.

We have not substantively assessed each of the functions exercised. Where an entity has exercised a function that has resulted in an output such as a report or guideline which is publicly available, we have verified that the output has been delivered, but we have not reviewed or assessed the content of the output.^c The EII Act establishes specific review and approval functions for key outputs which should be relied upon for this purpose. Where relevant we have reported on these review and approval functions.

IPART acknowledges the recently completed review of the Roadmap by Marsden Jacobs Associates called the [Electricity Supply and Reliability Check Up](#) (the Check Up). The Check Up found that, despite progress made, the current Roadmap program may not be able to deliver in a timeframe aligned to the exit of existing generation.^d The NSW Government responded to the Check Up by accepting that there is a need to improve prioritisation, whole-of-Government effort and governance frameworks to accelerate the Roadmap's delivery.^e

This annual report must contain information required by the Minister.¹ The Minister wrote to IPART on 4 August 2023 requiring that the FY 2022-23 annual report contain information on how the Consumer Trustee and Infrastructure Planner have considered:

- the Renewable Energy Sector Board's Plan when exercising their functions under the EII Act, including the Consumer Trustee's recommendation or imposition of conditions consistent with the guidelines when undertaking functions under the Electricity Infrastructure Investment Safeguard
- the First Nations Guidelines, issued by the former Minister under section 4 of the EII Act, when exercising their functions under the EII Act.

^b This report covers the exercise of functions by IPART and Australian Energy Regulator (AER) both appointed by the former Minister as Regulators under the EII Act. For the purposes of this report a reference to the Regulator is a reference to the AER unless IPART is specified.

^c The exception to this is where we have reviewed outputs the subject of the Minister's Direction (refer Sections 3.7 and 5.5) to enable us to report on how the First Nations Guidelines and Renewable Energy Sector Board Plan have been considered.

^d Marsden Jacobs, [NSW Electricity Supply and Reliability Check Up](#), 4 August 2023, p.10.

^e [Electricity Supply and Reliability Check Up: NSW Government response](#), September 2023, p.5.

We address the Ministerial direction in the respective chapters on the Consumer Trustee (Chapter 3) and Infrastructure Planner (Chapter 5). A copy of the Minister's direction will be made available on [IPART's website](#) when the annual report is published.

1.2 Structure of the report

This 2022-23 annual report is similar in structure to last year's annual report.

Chapter 2 of this report provides context to aid the reader's understanding of the Roadmap and the functions of the various entities. It also provides a summary of key Roadmap developments over the reporting period FY 2022-23.

Chapters 3 to 8 report on the exercise of functions under the EII Act by each entity. The chapter for each entity includes a table of functions that details, based on the information that each entity provided to us:

- whether or how the entity exercised each of its functions in FY 2022-23
- an explanation of why certain functions were not, or could not, be carried out in FY 2022-23
- forward-looking information relating to functions expected to be exercised in FY 2023-24.

Chapter 2 »

Roadmap program and key
developments

02

2.1 The NSW Government's plan to transform the NSW electricity system

The Electricity Infrastructure Roadmap was released in 2020 by the then NSW Government as a plan to transform the NSW electricity system into one that is cheap, clean and reliable.² The current NSW Government response to the Electricity Supply and Reliability Check Up conducted by a team led by Cameron O'Reilly from Marsden Jacob Associates in 2023 commits to a whole-of-government effort to deliver the energy transition for NSW households, businesses and communities.^f

The Electricity Supply and Reliability Check Up found that the current Roadmap program may not be able to deliver in a timeframe aligned to the exit of existing generation infrastructure. The full report is [available here](#). The report made a number of recommendations to the NSW Government, most of which the Government has accepted in full or in part. The NSW Government [has published its response here](#). Future annual reports prepared by IPART may include additional functions arising from those recommendations.

The Roadmap aims to deliver 12 gigawatts (GW) of renewable energy and 2 GW of long duration storage by 2030, in response to the retirement of ageing coal-fired generation plants and a congested transmission system. This generation and storage is expected to be concentrated within declared Renewable Energy Zones (REZs) where there is the greatest potential for renewable energy sources, such as wind and sunshine.

The Roadmap also aims to ensure investment by businesses and the Government to support new jobs and industries for the regions, including employment and income opportunities for Aboriginal and Torres Strait Islander people.

The Roadmap is set out in the [Electricity Infrastructure Investment Act 2020](#) (EII Act) which identifies the entities that have responsibilities to deliver the Roadmap and the functions that they will perform.

2.2 Roadmap entities and their roles

The functions of each of the entities are set out in the [Electricity Infrastructure Investment Act 2020](#) (EII Act) and the supporting [Electricity Infrastructure Investment Regulation 2021](#) (EII Regulation).

The Minister for Energy is also supported by their Department (i.e. the Office of Energy and Climate Change in NSW Treasury) which assists them to undertake a number of key functions necessary to implement the Roadmap.

^f [Electricity Supply and Reliability Check Up: NSW Government response](#), September 2023, p.5.

Box 2.1 Statutory roles established to deliver the Roadmap

The Infrastructure Planner is Energy Corporation (EnergyCo), appointed by the former Minister. It:

- is responsible for planning the location of REZs and coordinating investment in generation, long duration storage and firming capacity within REZs
- coordinates, contracts and oversees the network operators to deliver the transmission network infrastructure required to connect the generation built in REZs to the electricity grid.³

The Consumer Trustee is AEMO Services Limited, appointed by the former Minister. It:

- identifies when new generation, long-duration storage and firming infrastructure is required in the long-term financial interests of NSW electricity customers
- authorises or recommends to the Minister REZ network infrastructure projects and network operators based on the recommendation of the Infrastructure Planner
- conducts competitive tenders for Long Term Energy Service Agreements (LTESAs) for generation, long-duration storage and firming infrastructure and competitive tenders for REZ access rights once the Infrastructure Planner finalises each REZ Access Right Network and governing scheme.⁴

The Financial Trustee is Equity Trustees Limited, appointed by the Consumer Trustee through competitive tender. It:

- establishes and administers the Scheme Financial Vehicle
- advises the AER in relation to contribution determinations.⁵

The Scheme Financial Vehicle is a proprietary limited company under the *Corporations Act 2001* (Cth). It:

- administers the Fund, providing revenue to REZ network infrastructure projects as determined by the AER⁶
- is counterparty to LTESAs with project proponents
- makes contribution orders based on the annual contribution determination made by the Regulator (AER)
- may enter into risk management contracts.⁷

The Australian Energy Regulator is one of two Regulators appointed by the former Minister. It:

- makes revenue determinations for REZ network infrastructure projects and contribution determinations to facilitate the recovery of costs needed to support the continued operation of the Roadmap.⁸

IPART is the second of two Regulators appointed by the former Minister. IPART:

- is responsible for performance auditing the Roadmap entities and reporting each year on the exercise of their functions. The role of the Regulator is independent of the Minister.

- reviews and recommends the Renewable Energy Sector Board's Plan to the Minister for approval.

The Infrastructure Planner reports to the Minister and is subject to direction by the Minister. However, the Consumer Trustee, Financial Trustee, AER and IPART are independent bodies which undertake their Roadmap functions consistent with the EII Act and the EII Regulation.

The Office of Energy and Climate Change (OECC) has advised IPART that the Minister intends to appoint the Environment Protection Authority (EPA) as a regulator under the EII Act to carry out functions specified in Part 12 of the EII Regulation. For the purposes of this report, IPART invited the EPA to provide any information it considers would be useful to help the Minister and the public understand the EPA's intended role, including any information about its planning for functions to be exercised in FY 2023-24. We have included that information in Chapter 8.

2.3 Coordinating investment in new generation, storage and firming capacity

2.3.1 Establishing Renewable Energy Zones

At least five REZs in the Central-West Orana, Illawarra, New England, South West and Hunter-Central Coast regions of NSW will be established as the Roadmap rolls out. The REZs may be thought of as modern-day power stations.⁹

The locations of the REZs were chosen based on analysis to identify areas with strong renewable energy resource potential (e.g. sun and wind), proximity to the existing electricity network and consideration of potential interactions with existing land uses, including agricultural lands and biodiversity conservation.

The REZs will combine renewable energy generation such as wind and solar, storage such as batteries and pumped hydro, and high-voltage poles and wires within a designated zone so that upfront land-use planning and coordinated community consultation ensures a strategic approach.

When declaring a REZ the Minister must, among other things, specify the intended network capacity for network infrastructure within the REZ. The Minister must consider the potential effects on costs for NSW electricity customers, the infrastructure investment objectives as reported by the Consumer Trustee and must consult with the Minister for Planning and Public Spaces, AEMO and the public.

2.3.2 Encouraging private investment in generation



Investment in optimal mixes of renewable generation in the Renewable Energy Zones will be driven by the Electricity Infrastructure Investment Safeguard, under which Long Term Energy Services Agreements (LTESAs) will be awarded through competitive processes.

The Electricity Infrastructure Investment Safeguard (Safeguard) is a framework set out in the legislation⁹ to encourage private investment in new generation capacity and storage. It applies to generation, long-duration storage, and firming infrastructure.

The Safeguard includes:

- infrastructure investment objectives for generation, long-duration storage, and firming infrastructure
- a process for the Consumer Trustee to plan the development pathway for each type of new generation, long-duration storage and firming infrastructure
- the ability for the Consumer Trustee to award Long Term Energy Supply Agreements (LTESAs) through a competitive tender process if such agreements are required to meet the development pathway.

Setting infrastructure investment objectives

Under the Safeguard, the Consumer Trustee publishes an Infrastructure Investment Objectives Report every two years to meet the infrastructure investment objectives, including minimum objectives set out in the EII Act, by 31 December 2029.^h The Report includes a 20-year Development Pathway and a 10-year Tender Plan. The 20-year Development Pathway identifies when new generation, long duration storage and firming infrastructure is required in NSW to optimise price and reliable outcomes for NSW consumers. The 10-year Tender Plan then sets out the tender schedule for when LTESAs may be tendered to give effect to the 20-year Development Pathway.¹⁰

Following the Tender Plan, the Consumer Trustee will run competitive tenders for LTESAs and for REZ access rights once the Infrastructure Planner finalises them.

Awarding Long Term Energy Service Agreements

An LTESA is a financial contract between an LTES operator and the Scheme Financial Vehicle that is intended to provide an LTES operator with a safety net against unexpectedly low electricity prices but share the benefit where electricity prices are higher.

The Consumer Trustee recommends LTESAs by conducting a competitive tender process. The Consumer Trustee has discretion over the timing and scale of competitive tenders. It decides whether to recommend that the Scheme Financial Vehicle enter an LTESA but only where it considers doing so would be in the long-term financial interest of NSW electricity customers. The

⁹ Part 6 of the EII Act

^h Section 44 of the EII Act does not set minimum objectives for firming infrastructure.

Scheme Financial Vehicle has been established to serve as the independent counterparty to LTESAs.



Long-Term Service Agreements (LTESAs) offer the rights to access minimum cash flows for a project over a long period of time. They have been designed to protect investors from the risk of unexpectedly low wholesale energy prices, incentivising investment to support long-term stability in supply and contracting.

The Consumer Trustee must develop a risk management framework to protect the financial interests of consumers from risks associated with the management of financial liabilities arising from LTESA.

Box 2.2 Progress on coordinating investment in generation in 2022-23

In FY 2022-23, the Consumer Trustee developed the rules, guidelines and process that it will follow to conduct the first competitive tenders for LTESAs. The tender rules take into account the First Nations Guidelines and the Renewable Energy Sector Board (RESB) Plan.ⁱ

The Consumer Trustee has opened 3 rounds of tenders:

- **Round 1 – generation and long-duration storage infrastructure.** This tender commenced on 4 October 2022. The indicative LTESA sizes were for 950 MW (2,500GWh) per annum of generation and 600MW of long-duration storage. In May 2023, LTESAs were awarded to three projects representing 1,395MW (4,009 GWh) of renewable generation to the grid and one long-duration battery energy storage system.
- **Round 2 – Firming infrastructure.** In December 2022, following a direction from the then Minister, the Consumer Trustee published a 2022 Firming IIO Report. In line with this report, the Consumer Trustee conducted the first competitive tender for LTESAs for firming infrastructure which it expects to finalise in November 2023. The indicative tender size was for a minimum capacity of 380MW for projects providing firming services to the Sydney-Newcastle-Wollongong sub-region in summer of 2025-26.^j This was in response to firming capacity gap identified in the May 2022 Energy Security Target Monitor Report.
- **Round 3 – Generation and long-duration storage infrastructure.** The third tender offered LTESAs for generation and long-duration storage projects in NSW regions of the NEM. The indicative tender size was for 950MW (2,500GWh) per annum of generation and up to 550MW of long-duration storage, in line with the updated 2022 IIO report. At close of FY 2022-23, the Consumer Trustee was assessing project bids.

In October 2023, the Consumer Trustee anticipates that it will commence Tender Round 4 which is expected to include generation LTESAs and Central-West Orana REZ (CWO REZ) Access Rights.

ⁱ The RESB Plan sets out how to, in a cost-effective way, maximise locally produced and supplied goods and services, and employment of local workers and foster opportunities for apprentices and trainees, into the construction of new electricity infrastructure in NSW.

^j The size of the tender was increased to 930MW in partnership with the Commonwealth through the Capacity Investment Scheme (see: <https://aemoservices.com.au/news/media-release/230629-nsw-commonwealth-partnership-firming-infrastructure-tender>)

2.4 Ensuring network infrastructure is in place to support the transition

The Infrastructure Planner and the Consumer Trustee both have key roles in planning and decision making for REZ network infrastructure projects.

2.4.1 Identifying and authorising network projects

One of the Infrastructure Planner's roles is to identify and assess different options for the network infrastructure necessary to deliver a REZ that can support the intended network capacity. This includes undertaking preparatory activities and development works for the project, like network studies, planning approvals, land acquisition and community engagement. Once the Infrastructure Planner has decided on its preferred projects, its role is to recommend that option to the Consumer Trustee for authorisation.

The Infrastructure Planner has discretion over whether to conduct, and whether to prefer projects that have been the subject of, a competitive or 'contestable' assessment process, when it is authorising a project or recommending that the Minister direct a project to be carried out.^k



A contestable procurement process for the delivery of REZ network infrastructure projects intends to increase competition and therefore put downward pressure on the cost of developing these projects.

2.4.2 Authorising REZ network infrastructure projects and controlling costs

Once the Infrastructure Planner has made a recommendation to the Consumer Trustee, the Consumer Trustee decides whether to authorise a network operator to carry out the project or recommend that the Minister direct the network operator to carry out the project.

If the Consumer Trustee authorises the Infrastructure Planner's recommendation, the EII Act requires the Consumer Trustee to set a maximum amount for the capital costs for the development and construction of the project. The purpose of this cap is to set an amount for the network infrastructure project above which the costs would no longer justify the project or be in the long-term financial interests of NSW electricity customers. The maximum capital cost is then provided to the Regulator (AER) on a confidential basis.

To enable the Infrastructure Planner and the Consumer Trustee to perform their functions, a significant exchange of information occurs throughout the authorisation process. These interactions are managed via a set of guidelines developed and agreed by both parties: the Network Authorisation Guidelines (Draft).¹¹

^k For the Waratah Super Battery Project, the *Priority Transmission Infrastructure Project Direction (Waratah Super Battery Project) Order 2022* directed Transgrid as the network operator to carry out the project, and specified the contestable and the non-contestable elements of the project.

Once the Consumer Trustee has provided the maximum capital cost to the Regulator (AER), the Regulator (the AER) makes a determination of the costs the network operator will be paid to carry out the project, including a return on capital costs, and an allowance for operating and other costs. In making the determination, the Regulator applies a Transmission Efficiency Test (TET) to calculate the prudent, efficient and reasonable capital costs incurred by a network operator, which must not exceed the maximum amount set by the Consumer Trustee.

2.4.3 Priority transmission infrastructure projects

The EII Act also supports the NSW Energy Security Target by providing a process for priority transmission infrastructure projects (PTIPs). The Energy Security Target is set at the level of firm rated capacity needed to service NSW's electricity needs during a one in ten-year peak demand period, with the largest two units of NSW's generators experiencing an outage.

The EII Regulation requires the Infrastructure Planner to assess and make recommendations to the Minister regarding PTIPs. The Minister can then direct a network operator to carry out PTIPs to address forecast breaches of the NSW Energy Security Target. This is different to the process for REZ network infrastructure projects which requires the recommendation be provided to the Consumer Trustee. While the way a PTIP is identified and directed to be carried out is different to a REZ network infrastructure project, the costs are recovered through the same regulatory process.

2.4.4 Connecting to network infrastructure in Renewable Energy Zones

An access scheme authorises access to and use of the specified network infrastructure within a REZ by specifying how access rights are to be authorised and the terms and conditions that may apply. These access schemes are intended to provide investors with confidence that their access to the REZ network infrastructure will not be restricted beyond certain specified levels.

The Minister has the power to declare an access scheme but must consult on and then publish guidelines about their exercise of this function. The Infrastructure Planner sets the terms and conditions of access rights enlivened through Access Right Agreements. Generation and storage projects that wish to connect to network infrastructure which is subject to an access scheme will need to apply for an access right through the Consumer Trustee's competitive tender alongside LTESAs.

The Infrastructure Planner grants access rights to eligible operators for eligible projects consistent with the terms in the access scheme declaration and following recommendation from the Consumer Trustee at conclusion of the tender. The access right holders will need to apply to connect to the REZ network to the network operator appointed for the new REZ infrastructure.

The Consumer Trustee determines the fees payable to the Scheme Financial Vehicle by participants in an access scheme. The fees under the scheme are to be applied towards the cost of the network infrastructure required to enable the REZ and for distribution to funds set up for community and employment and training purposes within the REZ geographical area.

Box 2.3 Progress on delivering new network infrastructure in 2022-23

In FY 2022-23, the Infrastructure Planner progressed the delivery of new network infrastructure by:

- Energy Corporation of NSW (EnergyCo) being appointed by the former Minister as the Infrastructure Planner for 3 additional zones - the South West REZ, Hunter-Central Coast REZ and the Illawarra REZ
- Publishing the NSW Network Infrastructure Strategy which aims to support the coordination of network infrastructure to connect new generation and storage in the 5 REZs
- Selecting a first-ranked proponent for the role of Network Operator and commencing discussion on REZ design for the Central-West Orana REZ
- Supporting the Waratah Super Battery project by:
 - Providing the Waratah Super Battery Recommendation Report to the former Minister recommending to direct Transgrid as the Network Operator to carry out this project as a PTIP
 - Appointing Akaysha Energy as the System Integrity Protection Scheme (SIPS) Service Provider of the Waratah Super Battery, to assist Transgrid to carry out the project.

The NSW Government granted planning approval for the project in February 2023 and construction commenced in May 2023.

- Commencing community engagement to improve the design and minimise the impacts of the Hunter Transmission Project.

Box 2.4 Progress on delivering access rights in 2022-23

The Consumer Trustee and the Infrastructure Planner are both involved in granting Access Rights and setting Access Fees:

- The Central-West Orana (CWO) REZ Access Scheme as declared by the former Minister requires that the CWO REZ Access Rights be allocated through the Consumer Trustee's competitive tenders for generation and long-duration storage infrastructure.
- The Infrastructure Planner is to allocate the CWO REZ Access Rights, following recommendations of the Consumer Trustee at conclusion of the tender.
- The Consumer Trustee is to determine the Access Fees payable to the Scheme Financial Vehicle, and the Infrastructure Planner is to provide input on specific components of those Access Fees.^l

The Consumer Trustee published Tender Rules in March 2023, which it made in consultation with the Infrastructure Planner and the Regulator (AER).

Access Rights have not been granted in any Tender Rounds to date. The Consumer Trustee received a request from the Infrastructure Planner to conduct a tender for the first Central-West Orana REZ access rights^m in FY 2023-24. The CWO REZ Access Rights are expected to be offered as part of Tender Round 4 in Q4 2023.

2.5 Funding the Roadmap costs

The EII Act sets out a framework for the recovery of Roadmap costs through an Electricity Infrastructure Fund (Fund) established by the Scheme Financial Vehicle.

The Roadmap involves various costs, including payments to network operators, the net costs of LTES agreements, and the administrative costs of scheme entities. The Scheme Financial Vehicle will recover these costs from NSW distribution network businesses, which then pass the costs onto retailers and in turn NSW electricity customers through their retail bills, in the same way energy prices and network costs are currently passed onto those customers.

The Australian Energy Regulator has been appointed as the Regulator that sets the amount required to be recovered from the NSW distribution network service providers through annual contribution determinations. Each determination must also include a minimum prudent cash balance for the Fund.

^l The Draft Tender Information – CWO REZ Access Rights document outlines the joint obligations of the Consumer Trustee and the Infrastructure Planner regarding Access Rights and Fees.

^m Clause 42A of the EII Regulation.

In making a contribution determination, the AER must consult with the Financial Trustee and has powers to request information from the scheme entities. The EII Act requires the AER to gazette a contribution determination by 28 February of the year in which it is to apply.ⁿ

Box 2.5 Developments in Roadmap funding in 2022-23

In September 2022, the Consumer Trustee appointed Equity Trustees Limited as the Financial Trustee, and the Financial Trustee established the Scheme Financial Vehicle. The Scheme Financial Vehicle is a proprietary company limited by shares held on trust by the Financial Trustee. It facilitates funding and payments to private sector participants in the Roadmap and their investors.

In FY 2022-23, the Scheme Financial Vehicle was counterparty to 4 LTESAs and one payment deed relating to PTIPs. It appointed a board of directors (an interim board in October 2022 and a permanent one in April 2023), opened an account for the Electricity Infrastructure Fund (Fund), obtained a Moodys credit rating (AA3 Stable), entered into risk management contracts, and entered into arrangements to facilitate transactions in connection with LTESAs in March 2023.

The AER, as a Regulator, made the first contribution determination on 28 February 2023 setting out the costs of implementing the Roadmap over the coming financial year. The total contribution determination amount for 2023-24 is \$138.14 million. The amounts required to be paid by each NSW distribution network service provider are:

- Ausgrid \$61.45 million.
- Endeavour Energy \$48.86 million.
- Essential Energy \$27.83 million.^o

2.6 Roadmap commitment to communities

The Roadmap aims to foster community support for new investment in energy generation, storage, network and other related infrastructure. It also aims to support new jobs and industries for the regions, including employment and income opportunities for Aboriginal and Torres Strait Islander peoples.

In August 2022, the then Minister issued [guidelines](#) on consultation and negotiations with local First Nations communities for energy infrastructure delivered under the Roadmap as required under the EII Act.^p The guidelines recommend that project proponents be required to prepare an

ⁿ EII Act, section 56(5).

^o Australian Energy Regulator (AER), AER releases the first contribution determination under NSW Roadmap, see: <https://www.aer.gov.au/communication/aer-releases-the-first-contribution-determination-under-nsw-roadmap>

^p The guidelines are in addition to and do not replace or change any other existing legislation concerning cultural heritage, environmental, social, or other impacts of proposals.

Aboriginal Participation Plan which documents the engagement approach and the agreed commitments with local Aboriginal stakeholders.

The guidelines also outline factors decision makers, such as the Consumer Trustee, should take into account in exercising their functions under the EII Act. For example, the guidelines must be considered in the making of LTESAs and in network infrastructure projects.⁹ Monitoring and reporting of progress in meeting commitments under an Aboriginal Participation Plan may be required.

The former Minister also established advisory bodies to ensure employment, training and local supply opportunities are considered in delivering the Roadmap:

The Renewable Energy Sector Board (RESB) must prepare a plan setting out how to, in a cost-effective way, maximise locally produced and supplied goods and services, and employment of local workers and foster opportunities for apprentices and trainees, into the construction of new electricity infrastructure in NSW.¹² A RESB plan was approved and published in September 2022. The Minister and the Consumer Trustee must take the plan into account when exercising their functions under the EII Act.¹³

The Electricity Infrastructure Jobs Advocate will advise the Minister on strategies and incentives to encourage investment, development, workforce development, employment, and education and training opportunities in the energy sector in NSW including in the Hunter, Central Coast, Illawarra, Far West, South West, New England and the Central West regions of NSW. The Advocate will also advise on the rail, road and port infrastructure which is required in NSW and the regions specified above to promote export opportunities for generation, storage and network technology.

This annual report under the EII Act does not report on the exercise of functions of the Electricity Infrastructure Jobs Advocate or the RESB. The annual report only reports on the exercise of the Regulator's functions to review the RESB Plan. See section 7 for the report on the Regulator's exercise of functions.

⁹ Figures 1 and 2 of the [First Nations Guidelines](#) provide a high-level summary of where the First Nations guidelines must be considered and by whom, and where they may be required to be considered for LTES agreements and network infrastructure projects respectively.

Chapter 3 »

Consumer Trustee

03

The purpose of the Consumer Trustee is to act independently and in the long-term financial interest of NSW electricity customers.[†] In 2021, the then Minister appointed AEMO Services Ltd, a subsidiary of AEMO, in the role of Consumer Trustee under the EII Act.

The EII Act establishes the Consumer Trustee as an independent entity with various planning, advisory and procurement functions. In FY 2022-23 the key functions that the Consumer Trustee exercised were:

- Preparing and publishing reports about the infrastructure investment objectives
- Administering tenders to identify projects to offer Long Term Energy Service Agreements (LTESAs) and Access Rights
- Appointing a Financial Trustee to establish, own and administer the Scheme Financial Vehicle
- Preparing a risk management framework to protect long-term financial interests of NSW electricity customers from risks associated with LTESAs
- Providing advice to the Infrastructure Planner about network infrastructure.

The Consumer Trustee also undertook a range of preparatory works in relation to functions to be executed in FY 2023-24.

Table 3.2 further details how each legislated function was or was not exercised by the Consumer Trustee during FY 2022-23.

3.1 Infrastructure Investment Objectives Report

The EII Act requires the Consumer Trustee to prepare reports about the infrastructure investment objectives (IIO reports) which outline the development pathway for the infrastructure that is required to be constructed over the following 20 years to achieve the objectives of the EII Act. The reports must also include plans for competitive tenders over the following 10 years to give effect to the development pathway.

In December 2021, the Consumer Trustee published the first IIO report. The report outlines to investors, developers and the public what generation and long duration storage is required in NSW to meet the state's future energy needs. The Consumer Trustee is required to publish another IIO report every 2 years after the first report[‡]. To meet this requirement, the Consumer Trustee published a Draft 2023 Infrastructure Investment Objectives Report, which is to be finalised for publication in December 2023.¹⁴

[†] NSW Energy and Climate Action, *Entities delivering the Roadmap*, website accessed 12 October 2023.

[‡] Section 45(2) of the EII Act

In December 2022, the Consumer Trustee also published a [2022 Firming IIO Report](#) following a direction from the then Minister to conduct a competitive tender for firming infrastructure LTESAs.^t This report outlines the firming development pathway, consisting of 380 MW of firming infrastructure required by 2025-26, as well as an accompanying tender plan for firming infrastructure. In line with this report, the Consumer Trustee conducted the first and only planned competitive tender for LTESAs for firming infrastructure which is expected to be finalised in November 2023. See section 3.2 below for more details on the tenders that the Consumer Trustee conducted.

3.2 Tenders for Long-Term Energy Service Agreements (LTESAs)

LTESAs are financial derivative contracts which intend to protect investors from the risk of unexpectedly low wholesale electricity prices, incentivising investment to support long-term stability in supply and contracting^u of energy projects that contribute to the objectives of the EII Act. There are three LTESA products: generation, long-duration storage and firming. The Consumer Trustee is responsible for designing and running the competitive tender process to recommend LTESAs to the Scheme Financial Vehicle (SFV).^v The SFV is the counterparty to the LTESAs and is ultimately responsible for the decision to enter LTESA contracts and execute them.

In FY 2022-23, the Consumer Trustee developed the rules, guidelines and process to conduct the first competitive tenders for LTESAs. It also undertook extensive engagement activities to provide education and information for proponents including market briefings and public interactive webinars.

The Consumer Trustee published tender rules in September 2022 and updated them in March 2023 between Tender Rounds 1 and 2. The Consumer Trustee consulted with the Regulator on each version of the tender rules and published the rules in the Government Gazette as required under the EII Act.^w The tender rules reflect the requirements for the Consumer Trustee in administering tenders as set out in the EII Act and EII Regulation including:

- taking into account the First Nations Guidelines issued by the former Minister and the Renewable Energy Sector Board (RESB) Plan
- conducting tenders in a way that:
 - encourages genuine competition between the bidders and encourages competition between market participants
 - encourages tender bids from persons who are not already parties to LTESAs
 - is transparent, open and fair for all bidders
 - considers recent trends and changes in electricity infrastructure technology, the National Electricity Market (NEM) and the behaviour of customers and market participants
 - ensures costs to the Consumer Trustee of carrying out the tender are reasonable and minimises the costs of making a tender bid for bidders.

^t Sections 45(3) and 47(2) of the EII Act

^u AEMO Services, [Tenders](#), website accessed 12 October 2023.

^v Section 47 of the EII Act

^w Sections 47(6) and 47(7) of the EII Act

- considering both financial and non-financial value of the LTESAs when making a recommendation.

The tender evaluation process set out in the Tender Guidelines consists of two stages:

1. the Consumer Trustee assesses the initial project bid against eligibility and non-financial merit criteria and shortlists projects
2. the Consumer Trustee asks shortlisted projects to submit a Financial Value Bid for further assessment to demonstrate financial value.

The two-stage process allows the Consumer Trustee to first assess social licence merit criteria and the proponent's capacity and capability to deliver its project, before assessing financial value.

In April 2023, the Consumer Trustee made recommendations to the SFV to enter into LTESAs with the successful proponents from Tender Round 1. It is expected that recommendations relating to Tender Rounds 2, 3 and 4 will be made in FY 2023-24.

Tender round 1 (Generation and long-duration storage infrastructure)

The first competitive tender for generation and long-duration storage infrastructure commenced on 4 October 2022. The indicative LTESA sizes were for 2,500GWh per annum of generation and 600MW of long-duration storage. The results were finalised in May 2023 and LTESAs were awarded to three projects representing 1,395MW of renewable generation and one long-duration battery energy storage system ([Table 3.1](#)).

The Coppabella Wind Farm generation project is not part of a Renewable Energy Zone (REZ), but was successful in demonstrating outstanding merit during the tender process.^x

Table 3.1 Outcomes of Tender Round 1

Project Name	Company	Capacity MW	Available GWh	REZ	Type
Stubbo Solar Farm	ACEN Australia	400MW	1,135	Central West Orana	Generation
Coppabella Wind Farm	Goldwind Australia Pty Ltd	275MW	870	Non-REZ	Generation
New England Solar Farm	ACEN Australia	720MW	2,004	New England	Generation
Limondale BESS	RWE Renewables Australia	50MW/400MWh+	-	South West	Long Duration Storage

Source: [Tender Round One Outcomes](#), AEMO Services website

The guidelines^y anticipated that Access Rights to the CWO REZ Access Scheme could also be offered in Tender Round 1 subject to prerequisite activities. However, this round did not include Access Rights as the Access Scheme had not yet been declared by the former Minister at the time the tender commenced.

^x The Consumer Trustee can only recommend the making of an LTESA that relates to generation infrastructure that is not part of a REZ where the Consumer Trustee is satisfied the LTESA shows outstanding merit (Section 48(3) of the EII Act).

^y Section 1.3 of the [Tender round 1 guidelines](#)

Tender Round 2 (Firming infrastructure)

Tender Round 2 is the first competitive tender for firming infrastructure. The Consumer Trustee conducted Tender Round 2 at the direction of the former Minister under section 47(2) of the EII Act, in line with the 2022 IIO Firming Report. The goal of this tender is to help meet the Energy Security Target capacity gap identified in the Energy Security Target Monitor Report in Sydney, Newcastle, Wollongong sub-region, and the reliability standard. The Energy Security Target represents the target capacity required to meet forecast New South Wales maximum consumer demand in summer, with a reserve to account for the unexpected loss of the two largest generating units in the state.

The tender commenced with issuance of Tender Guidelines with an indicative tender size of 380MW. The Tender Guidelines indicated that in the long-term financial interest of NSW electricity customers, the Consumer Trustee may expand the indicative tender size for this Tender Round to meet the overall objective under the EII Act.

Tender Round 2 offered LTESAs for:

1. firming supply projects that can provide firming supply to the Sydney-Newcastle-Wollongong sub-region), and
2. demand response projects with loads (which must be physically located in the Sydney-Newcastle-Wollongong sub-region).

This tender commenced on 3 April 2023 and at the end of FY 2022-23, the Project Bid stage was near completion with the Financial Value Bid stage projected to commence in July 2024.

Tender Round 3 (Generation and long-duration storage infrastructure)

The third tender commenced in Q2 2023, offering LTESAs for generation and long-duration storage projects in NSW regions of the NEM. The indicative tender size was for 2,500GWh per annum of generation and up to 550MW of long-duration storage, in line with the updated 2022 IIO Firming report.

This tender commenced on 22 May 2023 and at the close of FY 2022-23, assessment of project bids had begun.

Tender Round 4 (Generation Infrastructure)

Tender Round 4 is anticipated to offer generation LTESAs and/or CWO REZ Access Rights. The Infrastructure Planner and the Consumer Trustee released CWO REZ Access Right specific draft tender information in June 2023 to help proponents understand the general scope and features of the CWO REZ Access Rights for this tender process.

In the lead up to the expected commencement of this tender in October 2023, the Infrastructure Planner and the Consumer Trustee accepted feedback on the draft documents and held a public webinar to discuss the proposed CWO REZ Access Right contracting structure and the expected CWO REZ Access Fee.

3.3 Appointing the Financial Trustee

The Consumer Trustee is responsible for appointing a person or body as the Financial Trustee.^z Following a competitive tender process, the Consumer Trustee appointed Equity Trustees Limited as the Financial Trustee effective 15 September 2022. Equity Trustees Limited has established the SFV in trust as required under the EII Act.^{aa}

See Section O for functions executed by the Financial Trustee.

3.4 Risk Management Framework

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

In FY 2022-23, the Consumer Trustee established a statutory risk management framework and subsidiary policies to guide the management of financial risks related to delivery of the Roadmap. The risk management framework was approved by the Regulator in July 2022 as required under the EII Act.^{cc} The Regulator noted that the effectiveness of the approved risk management framework is dependent on the practical implementation of its subsidiary policies and urged careful development of such policies by the Consumer Trustee.^{dd}

3.5 Advising the Infrastructure Planner about network infrastructure projects

The Minister or the Infrastructure Planner may ask the Consumer Trustee to provide advice about network infrastructure projects.^{ee} In FY 2022-23, at the Infrastructure Planner's request, the Consumer Trustee provided advice on:

- modelling of network infrastructure projects to inform the development of the Network Infrastructure Strategy
- calculation of the target transmission curtailment level for network infrastructure in the South-West REZ to inform its consultation on a draft Access Scheme for this REZ.

^z Section 61(1) of the EII Act

^{aa} Section 62(1) of the EII Act

^{bb} Section 51(1) of the EII Act

^{cc} Section 51(3) of the EII Act

^{dd} [AER letter to Consumer Trustee – Approval of risk management framework](#)

^{ee} Clause 18 of the EII Regulation

3.6 Works to prepare for exercise of functions in FY 2023-24

3.6.1 Authorisation of REZ network infrastructure projects

The Consumer Trustee must consider recommendations by the Infrastructure Planner about REZ network infrastructure projects against the development pathway of the latest IIO report. It can then authorise a network operator to carry out the project or recommend the Minister give a direction to a network operator for a project.^{ff}

The Infrastructure Planner is yet to recommend any projects to the Consumer Trustee. AEMO Services has engaged regularly with the Infrastructure Planner in connection with the CWO REZ network infrastructure projects for a recommendation anticipated in FY 2023-24. In preparation for exercising its authorisation function, the Consumer Trustee is planning to publish a Network Authorisation Process and Approach Paper in FY 2023-24.

3.6.2 Access Rights and Access Fees

Access Rights authorise the holder to connect to the REZ network infrastructure in accordance with the relevant Access Scheme Declaration,^{gg} Access Right Agreements and the National Electricity Rules. Access Rights are intended to address high costs, delays and uncertainty associated with the NEM's open access regime and current connection process.^{hh} Holders of an Access Right pay Access Fees to the SFV to access the REZ network infrastructure. The Access Fee includes a component to fund community benefit sharing initiatives and employment initiatives in the REZⁱⁱ, with residual amounts used to support the costs of administering the access scheme and offset part of the SFV cost that otherwise would be recovered from consumers.

The Consumer Trustee and the Infrastructure Planner both have significant involvement in granting Access Rights and setting Access Fees:

- The Consumer Trustee is to conduct the competitive tenders offering Access Rights, and the Infrastructure Planner is to provide advice and technical input on how to evaluate the bids for Access Rights.
- The Infrastructure Planner is to allocate the Access Rights, considering the results of the tender and recommendations of the Consumer Trustee.
- The Consumer Trustee is to determine the Access Fees payable to the SFV, and the Infrastructure Planner is to provide input on specific components of those Access Fees.^{jj}

^{ff} Section 31(1) of the EII Act

^{gg} The CWO REZ Access Scheme was declared by the Minister in December 2022 and sets out how generation and storage projects can be granted Access Rights to network infrastructure in the CWO REZ.

^{hh} NSW Department of Planning, Industry and Environment, [REZ access rights and scheme design: Central-West Orana](#), December 2021, p 5.

ⁱⁱ Section 26(2) and 26(4) of the EII Act

^{jj} The Draft Tender Information – CWO REZ Access Rights document outlines the joint obligations of the Consumer Trustee and the Infrastructure Planner regarding Access Rights and Fees.

The Consumer Trustee published Tender rules in March 2023, which it made in consultation with the Infrastructure Planner and the AER. REZ Access Rights have not been granted in any Tender Rounds to date. The CWO REZ Access Rights are expected to be offered as part of Tender Round 4^{kk} in FY 2023-24.

As there have not been any Access Rights awarded for the CWO REZ Access Scheme, the Consumer Trustee has not yet determined Access Fees. In preparation for Tender Round 4, the Consumer Trustee has published a draft CWO REZ Access Fee update setting out its approach to determining access fees, input from Infrastructure Planner and a draft Access Fee calculator.

3.7 Ministerial Direction

Under section 70(3) of the Act, the Minister required information be included in this annual report about how the Consumer Trustee has considered the Renewable Energy Sector Board's (RESB) Plan and the First Nations Guidelines when exercising its functions. The Consumer Trustee included this information in its submission to IPART about the Consumer Trustee's exercise of its functions under sections 4(4) and 9(1) of the EII Act.

Under section 4(4) of the EII Act the Consumer Trustee is to take the First Nations Guidelines into account when exercising functions that relate to LTESAs.^{ll} Under Section 9(1) of the EII Act the Consumer Trustee is to take the RESB plan into account in the exercise of its function under the EII Act.

The Consumer Trustee has taken both the First Nations Guidelines and the RESB plan into account when exercising its functions relating to LTESAs which include tendering for LTESAs, making recommendations about LTESAs and determining the terms and conditions of LTESAs. It has done this primarily through the design of the tender rules and guidelines.

The Consumer Trustee designed and implemented merit criteria in the Tender Rounds to specifically address the First Nations Guidelines and RESB plan:

- Merit criteria 6 – community engagement, shared benefits and land use considerations – requires evidence to demonstrate a clear understanding of any impacts on the community plus a tailored approach to minimise and offset any impacts of the relevant electricity infrastructure on affected communities and directs proponents to the First Nation Guidelines and region-specific guidelines prepared by OECC.
- Merit criteria 7^{mm} – regional economic development – requires demonstration and/or commitments to improve regional economic development, including local supply chain, workforce and First Nations participation and directs proponents to the First Nation Guidelines and RESB plan.

^{kk} Clause 42A of the EII Regulation.

^{ll} Section 4(4) of the EII Act limits consideration of the First Nation Guidelines by the Consumer Trustee to the exercise of the Consumer Trustee's functions under Part 6, Division 3 (Long-term energy service agreements) and Division 4 (Operation of long-term energy service agreements)

^{mm} Merit criteria 7 in Tender Round 2 and 3 was merit criteria 8 in Tender Round 1

In Tender Round 1, 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. Proponents were required to submit an Industry and Aboriginal Participation Plan responding to requirements established in the RESB Plan and First Nations Guidelines. The successful bids from Tender Round 1 have substantial commitments to subcontracts for First Nations businesses and for direct employment of Aboriginal and Torres Strait Islander peoples.

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 SFV. Failure to meet targets can result in escalation, the implementation of agreed plans to realign with targets, or termination of the LTESA.

In FY 2022-23 the Consumer Trustee took the RESB plan into account in the exercise of its functions relating to the preparation of the:

- 2022 Firming Infrastructure Investment Objectives Reportⁿⁿ
- Draft 2023 Infrastructure Investment Objectives Report.^{oo}

In modelling the Development Pathway for the 2021 IIO Report, the Consumer Trustee considered the RESB plan and the opportunities and barriers which it raised, including:

- the need to build capacity and capability in the NSW renewable energy sector, including through long-term planning and supply chain development and
- barriers including skill and labour shortages, including those as a result of competition from a large general infrastructure pipeline, low levels of unemployment in REZs and shortages in key occupations (e.g. electricians).

As a result, the 2021 Development Pathway for generation and long-duration storage infrastructure was modelled with limits on the amount of generation that is assumed able to be constructed in a given year taking into account the risk of supply chain constraints. This approach was retained in the 2022 Firming IIO Report and the Draft 2023 IIO Report.^{pp}

ⁿⁿ 2022 Firming Infrastructure Investment Objectives Report, p 30

^{oo} Draft 2023 Infrastructure Investment Objectives Report, p 28

^{pp} Appendix D of the 2021 IIO Report details the key supply chain considerations underpinning the approach

Table 3.2 Functions of the Consumer Trustee under the EII Act

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
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. ^c	Y	The Consumer Trustee exercised its functions in relation to section 4(4) during FY 2022-23. It took into account the First Nations guidelines issued by the former Minister when designing and conducting the Tender Rounds. Refer to section 3.7 of this report for more detail on how this function was exercised.
	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 s.31(1)(a)) to the Minister and impose a condition on an authorisation (under s.31(1)(b)).	N	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not recommend any projects to the Consumer Trustee. See commentary on section 31(1) in this table.
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.	Y	The Consumer Trustee exercised this function during FY 2022-23. It considered the RESB Plan in developing its 2022 Firming Infrastructure Investment Objectives Report, its design of LTESA tender rounds and merit criteria, and its advice provided to the Infrastructure Planner under Clause 18 of the Regulation. Refer to Clause 18 in this table.
	Section 9(3)-(4)	To give effect to the plan, the Consumer Trustee may include a recommendation (under s.31(1)(a)) to the Minister and impose a condition on an authorisation (under s.31(1)(b)).	N	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not recommend any projects to the Consumer Trustee. See commentary on section 31(1) in this table.
Fees for access schemes	Section 26(1)	Determine the fees payable to the Scheme Financial Vehicle by participants in an access scheme, taking into consideration the following principles: <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. 	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as there are no participants in an access scheme yet. The first Access Rights to the Central West Orana REZ are expected to be allocated in Tender Round 4 and then the Consumer Trustee must exercise this function to determine the access fees. Draft guidance material has been published in relation to this function. Refer to Section 3.6.2 of this report for more detail on Access Rights and Access Fees.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
	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.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as there are no participants in an access scheme yet. Refer to Section 3.6.2 of this report for more detail on Access Rights and Access fees.
	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.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as there are no participants in an access scheme yet. Refer to Section 3.6.2 of this report for more detail on Access Rights and Access Fees.
	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> .	Y	In FY22-23, the Consumer Trustee sought advice from the Committee on the proposed employment component of Central-West Orana REZ access fees. This was done in preparation to exercise its functions relating to access fee determinations. Refer to Section 3.6.2 of this report for more detail on Access Rights and Access Fees.
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. ^d	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as it determined the Infrastructure Planner is seeking to make its recommendations in a timely manner. See commentary on section 31(1) in this table.
	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 b) authorise a network operator to carry out a REZ network infrastructure project.	Y (in part) N (in part)	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not make any recommendations on REZ network infrastructure projects. The Consumer Trustee expects to receive a recommendation for the Central-West Orana REZ Network infrastructure Project(s) in the next financial year and plans to publish a Network Authorisation Process and Approach Paper setting out the processes and approach that the Consumer Trustee will adopt in advance of the recommendation to exercise this function.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
	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).	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not make any recommendations on REZ network infrastructure projects.
	Section 31(3)	The Consumer Trustee must not disclose the above maximum amount to any person.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not make any recommendations on REZ network infrastructure projects.
	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.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not make any recommendations on REZ network infrastructure projects. See commentary on section 31(1) in this table.
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)	N	The Consumer Trustee did not exercise this function during FY 2022-23 as the Regulator has not made 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 infrastructure investment objectives, and 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	Y	The Consumer Trustee exercised this function during FY 2022-23 in preparing the 2022 Firming Infrastructure Investment Objectives Report and the Draft 2023 Infrastructure Investment Objectives report. Refer to section 3.1 of this report for more detail on the IIO reports.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
		c) other matters prescribed by the regulations.		
	Section 45(2)	The report must be prepared: a) as soon as practicable after the commencement of this section, and b) every 2 years after the first report.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as it has not yet been 2 years since the first report in 2021. It has published a Draft 2023 Infrastructure Investment Objectives Report for consultation to exercise this function in the next financial year.
	Section 45(3)	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.	Y	The Consumer Trustee exercised this function during FY 2022-23 after being directed to conduct a competitive tender for LTES agreements for firming infrastructure and it produced the 2022 Firming Infrastructure Investment Objectives report.
	Section 45(4)	The regulations may prescribe the matters that the Consumer Trustee is to take into account in preparing the report.	Y	The Consumer Trustee exercised this function during FY 2022-23 in producing the 2022 Firming Infrastructure Investment Objectives report which considers clauses 24 and 25 of the regulations.
	Section 45(5)-(6)	The report is to be published on the Consumer Trustee's website. The Consumer Trustee is to exercise its functions under Part 6 on the basis of the reports prepared under section 45.	Y	The Consumer Trustee exercised this function during FY 2022-23 in publishing the 2022 Firming Infrastructure Investment Objectives report on its website. The Consumer Trustee exercised its functions under Part 6 (notably conducting competitive tenders for LTESAs) in line with the development pathway and 10-year plan in the most recent IIO report.
Tendering for LTES agreements	Section 47(1)	The Consumer Trustee must conduct a competitive tender for LTES agreements unless the Regulator otherwise authorises generally or in a particular case.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it conducted three competitive tenders for LTESAs. Refer to section 3.2 of this report for more detail on the tenders for LTESAs.
	Section 47(2)	The Consumer Trustee must not conduct a competitive tender for LTES agreements for firming infrastructure unless directed by the Minister.	Y	The Consumer Trustee exercised this function during FY 2022-23 and conducted a competitive tender for LTESAs for firming infrastructure, at the direction of the then Minister.
	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.	Y	The Consumer Trustee exercised this function during FY 2022-23 as the competitive tenders for LTESAs were conducted in accordance with the regulations and tender rules. Refer to section 3.2 of this report for more detail on the tenders for LTESAs.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
	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. 	Y	The Consumer Trustee exercised this function during FY 2022-23 as it made tender rules consistent with the regulations, to deal with the matters specified.
	Section 47(6)	Before making rules, the Consumer Trustee is to consult with the Regulator.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it consulted with the Regulator to on the tender rules and considered feedback. It consulted with the Regulator again prior to updating the tender rules for the firming infrastructure tender. Refer to the Australian Energy Regulator Consultation documents on the Consumer Trustee's website.
	Section 47(7)	The rules are to be published in the Gazette	Y	The Consumer Trustee exercised this function during FY 2022-23 as the rules were published in the Government Gazette No 447 of 23 September 2022 and an update was published in Government Gazette No 137 of 24 March 2023.
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.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it made formal recommendations to the SFV to enter into LTESAs which had been assessed for financial value in the competitive tender process.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
	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.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it recommended a generation LTESA for one project that will not be part of a REZ, having assessed that it satisfied relevant requirements through the competitive tender process and demonstrated outstanding merit.
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	Y	The Consumer Trustee exercised this function during FY 2022-23 as it determined the final terms and conditions for each specific LTESA which it recommended to the SFV resulting from Tender Round 1.
	Section 50(5)	In determining the terms and conditions of an LTES agreement, the Consumer Trustee is to take into account the following principles— <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. 	Y	The Consumer Trustee exercised this function during FY 2022-23 as it determined the terms and conditions of the LTESAs, considering the specified principles. The terms and conditions and relevant documents (long-form contracts, term sheets for long duration storage, generation, and project development agreements) were drafted and released over the last two financial years in accordance with regulations.
Risk management framework	Section 51(1)-(3)	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.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it prepared a risk management framework which was approved by the Regulator. The risk management framework addresses management of financial risks associated with LTESAs and provides for the functions of all the specified entities, in accordance with clauses 32 and 33 of the regulations.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
		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.		
	Section 51(4)-(5)	The approved risk management framework ^e 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.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it published the risk management framework as approved by the Regulator.
	Section 51(7)	The Consumer Trustee must amend the risk management framework on the direction of the Minister	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as it was not directed to amend the risk management framework.
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.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as it was not requested to provide this advice and did not consider it necessary.
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.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it made formal recommendations to the SFV to enter into specific LTESAs.
Appoint financial trustee	Section 61(1)	The Consumer Trustee is to appoint a Financial Trustee	Y	The Consumer Trustee exercised this function during FY 2022-23 as it appointed a Financial Trustee following a competitive tender process.
Suspension or termination of appointment	Section 68(1)-(3)	The appointor ^f may suspend or terminate the appointment of a person or body under this Part by giving written notice to the person or body. 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.	N	The Consumer Trustee did not exercise this function during FY 2022-23.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
		<p>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. 		
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.	Y	The Consumer Trustee exercised this function during FY 2022-23 in providing a report to IPART on its exercise of functions.
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.	N	The Consumer Trustee did not exercise this function during FY 2022-23.
Advice and recommendations about network infrastructure projects	Clause 18 (s 60(4)(c))	<p>The Consumer Trustee may, on request of a relevant person, provide a relevant person advice about a network infrastructure project.</p> <p>Relevant person means the Minister, the Infrastructure Planner or the Energy Corporation.</p> <p>The Consumer Trustee may also give the advice to other relevant persons.</p>	N	<p>The Consumer Trustee exercised this function during FY 2022-23 as it was requested by the Infrastructure Planner to provide advice on modelling of network infrastructure projects.</p> <p>Refer to section 3.5 of this report on advice provided to the Infrastructure Planner.</p>
Recommendations by Consumer Trustee about network infrastructure projects	Clause 19 (ss 60(4)(c) and 66(5)(d))	The Consumer Trustee must not make a recommendation ⁹ that the Minister give a direction under the Act ¹⁰ , unless the Consumer Trustee is satisfied the direction is reasonably necessary to achieve the infrastructure investment objectives.	Y	<p>The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not make any recommendations about network infrastructure projects,</p> <p>See commentary on section 31(1) of this table.</p>

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
		<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 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,ⁱ 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) (s 60(4)(c))	<p>An authorisation by the Consumer Trustee under the Act^j 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>	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not recommend any projects to the Consumer Trustee. See commentary on section 31(1) of this table.
Transfer of network infrastructure	Clause 21(2)(b) (s 42)	If the Energy Corporation is the Infrastructure Planner in relation to the transferred network infrastructure, the authorisation provider ^k must consider the Energy Corporation's recommendation before giving approval.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as the Infrastructure Planner did not recommend any projects, and the Consumer Trustee has not yet authorised network infrastructure. See commentary on section 31(1) of this table.
Infrastructure investment objective reports	Clause 24 and 25 (s 45)	These clauses contain what the Consumer Trustee must include and take into account in the investment objective reports.	Y	The Consumer Trustee exercised this function during FY 2022-23 in preparing the 2022 Firming Infrastructure Investment Objectives Report and the Draft 2023 Infrastructure Investment Objectives report. See commentary on section 45(1) of this table.
Tendering for LTES agreements	Clause 26	This clause contains the way in which the Consumer Trustee must conduct a competitive tender.	Y	The Consumer Trustee exercised this function during FY 2022-23. See commentary on section 47(3) of this table.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
LTES agreements recommendation	Clause 26A	This clause provides matters the Consumer Trustee must take into consideration when making a recommendation about LTES agreements.	Y	The Consumer Trustee exercised this function during FY 2022-23. See commentary on sections 48(1), (2) and (3) of this table.
Competitive tenders for LTES agreements	Clause 28(2)&(3) (s 47(3)(a))	Clause 28(1) 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.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as there are no relevant Access Rights relating to this function.
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. ¹ When making a recommendation about an LTES agreement, the Consumer Trustee must take into account the non-financial value criteria for LTES agreements.	N	The Consumer Trustee exercised this function during FY 2022-23 as it made recommendations to the SFV for LTESAs which were assessed against non-financial merit criteria. Refer to section 3.2 in the report for more detail on the Tender Rounds.
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.	Y	The Consumer Trustee exercised this function during FY 2022-23 as it was satisfied of these requirements with respect to the derivative arrangement in the generation LTESAs.
Risk management framework	Clauses 32-33 (s 51(8))	Provides the requirements for the risk management framework	Y	The Consumer Trustee exercised this function during FY 2022-23 as it prepared a risk management framework in line with these requirements which was approved by the Regulator. See commentary on section 51(1)-(3) of this table.
Contribution determination	Clause 39	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.	Y	The Consumer Trustee exercised this function during FY 2022-23 in providing its administration expenditure requirements and estimates to the SFV as required to enable the Regulator to make a contribution determination. The Consumer Trustee also responded to the Regulator on request to further outline the assumptions for the labour and consultancy costs it provided.
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:	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as there were no tenders conducted for Access Rights.

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Consumer Trustee ^b
		a) the declaration for the access scheme provides for situations in which the infrastructure planner may grant or increase an access right based on a recommendation from the consumer trustee, or 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. Subclause (2) sets out the requirements on the Consumer Trustee if either of the above applies.		
Revenue determinations	Clause 49(3) (s 38(10)(a))	The Consumer Trustee must give the Regulator information about the amount notified to the Regulator under the Act ^m that the Regulator considers necessary to make the revenue determination.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as it has not authorised nor set a maximum capital cost amount for a REZ network infrastructure project yet. See commentary on section 31(1) of this table.
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 purposes.	Y	The Consumer Trustee did not exercise this function during FY 2022-23 as there are no access scheme fees set yet.

Note:

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

b. The information in this column is drawn from the annual reports provided by the Roadmap entities to IPART in accordance with section 70(1) of the EII Act. In some cases, we have updated this column to incorporate additional information and points of clarification provided by each entity in subsequent correspondence

c. 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.

d. Section 30(4) of the EII Act.

e. Approved by the Regulator

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

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

h. Under section 32 of the EII Act.

i. Under section 31 of the EII Act.

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

k. 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.

l. Under section 48 of the EII Act.

m. Section 31(2) of the EII Act.

Chapter 4 »

Financial Trustee



4.1 The Financial Trustee and the Scheme Financial Vehicle

AEMO Services Limited, as the Consumer Trustee, appointed Equity Trustees Limited as the Financial Trustee on 15 September 2022 following an open tender.

Under the EII Act, the Financial Trustee has the following functions:

- Establish the Scheme Financial Vehicle
- Administer the Scheme Financial Vehicle
- Advise the Regulator in relation to contribution determinations
- Other functions prescribed by the regulations, including providing a report to the Regulator on the activities of the Scheme Financial Vehicle during the financial year.¹⁵

The Financial Trustee established the Scheme Financial Vehicle on 16 September 2022 as a proprietary company limited by shares held on trust by the Financial Trustee by way of a statutory trust, independent of the NSW Government. The Scheme Financial Vehicle subsequently elected an independent Board of Directors in a process managed by the Financial Trustee.

Under the Instrument of Appointment, the Financial Trustee also carried out the following administration services:

- Company secretariat activities (e.g. meetings and resolutions) associated with administering Scheme Financial Vehicle and being the sole shareholder
- Acting as payment agent by making payments on behalf of the Scheme Financial Vehicle. This includes receiving from and making payments on behalf of Scheme Financial Vehicle in relation to its ongoing administration costs.

A summary of key functions exercised by the Financial Trustee during the 2022-23 financial year is provided below. [Table 4.1](#) lists each of the Financial Trustee's functions and details if, and how, each function was exercised.

4.1.1 The Scheme Financial Vehicle

The Scheme Financial Vehicle plays a critical role in facilitating funding and payments to private sector participants in the NSW Electricity Infrastructure Roadmap (Roadmap) and their investors. The Scheme Financial Vehicle works alongside other Roadmap entities to incentivise and bring forward private capital investment in electricity infrastructure assets. The Scheme Financial Vehicle achieves this by maintaining confidence as a creditworthy counterparty to:

- Long Term Energy Service Agreements (LTESAs)
- Payment Deeds for both Transmission Infrastructure and PTIPs.

The Scheme Financial Vehicle has the following functions under the EII Act:

- Establishing and maintaining the Electricity Infrastructure Fund (Fund) for the purposes set out in the EII Act¹⁶
- Entering into LTESAs

- Entering into risk management contracts, consistent with the Risk Management Framework established by the Consumer Trustee and approved by the Australian Energy Regulator (AER as Regulator)
- Paying amounts from the Fund in accordance with the EII Act, including to network operators in accordance with revenue determinations of the Regulator
- Making payments from the Fund to the Consumer Trustee, the Financial Trustee and the Regulator as required in the Instrument of Appointment or otherwise authorised by the Minister, to enable the exercise of their functions under the EII Act
- Making contribution orders based on the annual contribution determination made by the Regulator
- Receiving money under a contribution order from a Distributed Network Service Provider.¹⁷

During the 2022-23 financial year the Scheme Financial Vehicle was the counterparty to 4 LTESAs and one payment deed relating to PTIPs. To meet obligations under the EII Act and the Roadmap for the Scheme Financial Vehicle and the Fund, the Scheme Financial Vehicle undertook the following activities:

- Appointed a full interim board of directors in October 2022
- Opened an account with an authorised deposit-taking institution for the Fund in October 2022
- Entered into risk management contracts in December 2022
- Entered into arrangements to enable the issue, variation or disposal of derivatives (including swaps) to facilitate transactions in connection with LTESAs in March 2023
- Appointed a permanent board of directors in April 2023
- Entered into an agreement with outsourced service provider (AEMO Services Ltd) for the provision of services, including staff, information technology services, offices and equipment, to enable the Scheme Financial Vehicle to operate as required under the EII Act
- The Financial Trustee continues to work closely with the Consumer Trustee to ensure the appointment, and related agreements, with appropriate outsourced service provider proceed so the Scheme Financial Vehicle can operate as required under the EII Act
- Completed the first Annual Report, including audited financial reports, of the Scheme Financial Vehicle on 26 September 2023.

4.1.2 The Electricity Infrastructure Fund

The Scheme Financial Vehicle established the Fund on 19 October 2022.

From July 2023 the Scheme Financial Vehicle is funded, in part, using the contribution determination process for recovery.¹⁸ Under the EII Act, the AER, as a Regulator, is required to make an annual contribution determination which covers the costs of implementing the Roadmap and facilitate the recovery of these costs through payments from NSW Distributed Network Service Providers. Specifically, the AER is required to make contribution determinations sufficient to allow the Scheme Financial Vehicle to make payments from the Fund as set out under the EII Act, including necessary funds to meet its liabilities as they fall due.¹⁹

The AER made the first contribution determination under the EII Act on 28 February 2023.²⁰

The framework for the administration of the Fund by the Scheme Financial Vehicle is set out in Part 7 of the EII Act. The purpose of the Fund is to manage costs associated with:

- network investment required to support infrastructure projects under the EII Act
- the establishment of LTESAs
- administration of the EII Act by its appointed entities.

The Fund provides payments to generation and long-term storage project proponents based on the AER's revenue determinations (see section 6.1) for Renewable Energy Zone (REZ) network infrastructure projects and PTIPs developed under the Roadmap, for example long term storage batteries or solar farms.

The Fund also receives ongoing payments from NSW network operators (Ausgrid, Endeavour Energy and Essential Energy) which then recover these amounts from NSW electricity consumers.

The Fund's cost recovery and exemptions processes are described in the NSW Government's [Electricity Infrastructure Fund Policy Paper: Part 7](#), the AER's [NSW Electricity Infrastructure Investment Act - Jurisdictional scheme application](#), Part 7 of the EII Act, and the [EII Reg](#).

Monies payable into the Fund include all money:

- received by the Scheme Financial Vehicle from a distribution business (i.e. Ausgrid, Endeavour Energy and Essential Energy) under a contribution order made by the AER, as Regulator
- advanced by the Scheme Financial Vehicle for the maintenance of the Fund
- paid into the Scheme Financial Vehicle under a LTESA or a risk management contract
- paid into the Scheme Financial Vehicle as fees by participants in an access scheme
- paid into the fund as proceeds from investment of money in the Fund, and
- received from voluntary contributions to the Fund made by a person or body.²¹

Monies payable out of the Fund include:

- payments under LTESAs
- payments under risk management contracts
- network revenue allowances
- administrative cost allowances.²²

While the EII Act states that the costs of the Fund will be directly recovered from distribution businesses, it is expected these costs will be passed on to consumers through the network component of retail bills.²³

Table 4.1 Functions of the Financial Trustee under the EII Act

Function area ^a	Ref ^b	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Financial Trustee ^c
Consultee about contribution determinations	Sections 56(6)(a) and 61(2)(b)	The Financial Trustee is to be consulted about contribution determinations, and to advise the regulator about contribution determinations.	Y	The Financial Trustee attended a consultation meeting, and corresponded, with the Regulator, on 8 December 2022 in relation to the inaugural contribution determination.
Scheme Financial Vehicle	Section 61(2)(a)	The Financial Trustee must administer the Scheme Financial Vehicle	Y	<p>The Financial Trustee was appointed through the Instrument of Appointment on 15 September 2023.</p> <p>The Instrument of Appointment contains various conditions, obligations, and services in relation to the administration of the Scheme Financial Vehicle.</p> <p>Administrative activities of the Financial Trustee were:</p> <ul style="list-style-type: none"> • The Scheme Financial Vehicle was incorporated on 16 September 2022 and the shares are held by the Financial Trustee on statutory trust for the purposes of the EII Act. • A full interim board of directors for the Scheme Financial Vehicle was appointed in October 2022. • The Scheme Financial Vehicle established the Fund by opening an account kept with an authorised deposit-taking institution (i.e. the National Australia Bank) in October 2022. • The Scheme Financial Vehicle entered into risk management contracts recommended by the Consumer Trustee. These were completed in December 2022. • In March 2023, the Financial Trustee entered into an arrangement with the Scheme Financial Vehicle to enable the issue, variation or disposal of derivatives, including swaps (within the meaning of 'derivative' under 761 D of the Corporations Act) to Wholesale Clients under or in connection with LTESAs (as defined under the EII Act). • In April 2023, completed the appointment of a permanent board of directors. • Appointed an outsourced service provider, AEMO Services Ltd, under a short form agreement for the provision of services, including staff, information technology services, offices and equipment, to enable the Scheme Financial Vehicle to operate as required under the EII Act. • The Financial Trustee worked and continues to work closely with the Consumer Trustee to ensure the appointment, and related agreements, with appropriate outsourced service provider(s) continue to enable the Scheme Financial Vehicle to operate as required under the EII Act. • External auditors have been appointed by the Scheme Financial Vehicle to audit the financial reports This was completed 26 September 2023. • The Financial Trustee appointed external auditors to prepare a cash controls audit report in relation to the cash management controls within the Scheme Financial Vehicle in accordance with ASAE 3150 (<i>Assurance Engagements on Controls</i>). This audit is expected to be completed in October/November 2023

Function area ^a	Ref ^b	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Financial Trustee ^c
				<ul style="list-style-type: none"> The external audit activities detailed above represent the completion of the First Conditions & Second Conditions and partial completion of the Final Conditions under the Instrument of Appointment. The Financial Trustee is working with the Consumer Trustee and the Scheme Financial Vehicle to complete the remaining Final Conditions. <p>In addition to the above the FT, under the Instrument of Appointment, undertook the following administration services:</p> <ul style="list-style-type: none"> Company secretariat activities (e.g. meetings and resolutions) associated with administering the Scheme Financial Vehicle and being the sole shareholder. Acting as payment agent for the Scheme Financial Vehicle, by making payments on behalf of the Scheme Financial Vehicle. This includes receiving from and making payments on behalf of the Scheme Financial Vehicle in relation to its ongoing administration costs.
	Section 62	The Financial Trustee is to establish the Scheme Financial Vehicle as a company limited by shares under the <i>Corporations Act 2001</i> (Cth) within 3 months of the commencement of section 62. The shares must be held by the Financial Trustee on trust for the purposes of the Act.	Y	<p>The Financial Trustee established the Scheme Financial Vehicle as a company limited by shares under the <i>Corporations Act 2001</i> (Cth) within 1 month of the appointment of the Financial Trustee.</p> <p>The Scheme Financial Vehicle was incorporated on 16 September 2022 and the shares are held by the Financial Trustee on statutory trust for the purposes of the EII Act.</p>
Annual reports	Section 70	The Financial Trustee must, as soon as reasonably practicable after the end of each financial year, provide the Regulator with a report on the exercise of the functions under this Act during the financial year.	Y	The Financial Trustee provided the Regulator with a report on the exercise of the functions under the EII Act during the financial year ended 30 June 2023.
Delegation	Section 71	The Financial Trustee may delegate any of their functions, other than the power of delegation, to a person of a class prescribed by the regulations	N	The Financial Trustee did not delegate any functions under Section 71 in FY 2022-23.
Contribution determination	Clause 39	The Financial 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.	Y	The Financial Trustee provided information for the contribution determination for 2023-2024.

Function area ^a	Ref ^b	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Financial Trustee ^c
Functions of the FT	Clause 42B(1)-(2)	The Financial Trustee must report to the Regulator on the activities of the Scheme Financial Vehicle during a financial year. The report must be included as part of the report provided by the Financial Trustee to the Regulator under the Act ⁹⁹ .	Y	The Financial Trustee provided a copy of the Annual Report, including audited financial reports of the Scheme Financial Vehicle to the Regulator on 27 September 2023.
	Clause 42B(3)	The Financial Trustee may request information from the Scheme Financial Vehicle for the purposes of preparing the report.	N	The Financial Trustee provided a copy of the Annual Report, including audited financial reports of the Scheme Financial Vehicle to the Regulator on 27 September 2023.

Notes:

a. Section 70(1) of the EII Act.

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

c. The information in this column is drawn from the annual reports provided by the Roadmap entities to IPART in accordance with section 70(1) of the EII Act. In some cases, we have updated this column to incorporate additional information and points of clarification provided by each entity in subsequent correspondence

⁹⁹ Section 70(1) of the EII Act.

Chapter 5 »

Infrastructure planner

05

The role of the Infrastructure Planner is to maximise the opportunities created by the transformation of the NSW electricity system by coordinating investment in Renewable Energy Zones (REZs) across the State. The Infrastructure Planner coordinates the transition to ensure it happens in an orderly manner. It leads strategic planning and consultation processes, so the new transmission infrastructure needed to realise the State's energy transition is developed in the right place, at the right time, to deliver clean, reliable and affordable energy to the households and businesses of NSW.²⁴

The former Minister appointed EnergyCo as the Infrastructure Planner for the Central-West Orana REZ and the New England REZ in FY 2021-22.²⁵ During FY 2022-23, the former Minister appointed EnergyCo as the Infrastructure Planner for 3 additional zones including the South West REZ²⁶, Hunter-Central Coast REZ²⁷ and the Illawarra REZ²⁸. The former Minister also appointed EnergyCo to be the Infrastructure Planner for 2 PTIPs including the Waratah Super Battery²⁹ and the Hunter Transmission Project³⁰.

In FY 2022-23 the Infrastructure Planner exercised the following key functions:

- Investigating, planning, co-ordinating and carrying out planning, design, construction and operation of storage and network infrastructure.³¹
- Carrying out competitive assessment processes in relation to proposed REZ network infrastructure projects and PTIPs.³²
- Administering REZ access schemes.
- Assessing and making recommendations about PTIPs to which the Infrastructure Planner has been appointed.³³
- Contracting and overseeing the parties delivering infrastructure projects.³⁴

A summary of key functions exercised by the Infrastructure Planner during FY 2022-23 is provided below. [Table 5.1](#) lists each of the Infrastructure Planner's functions and details whether and how, each function was exercised during FY 2022-23.

5.1 REZ network infrastructure projects

The Infrastructure Planner is responsible for designing and recommending the required network infrastructure projects for the REZs and recommending a network operator to build, fund and maintain each REZ network infrastructure project.

In May 2023, the Infrastructure Planner released the NSW Network Infrastructure Strategy after stakeholder consultation in late 2022. The 20-year Strategy aims to support the coordination of network infrastructure to connect new generation and storage in the 5 REZs and meet the EII Act objectives. It proposes a schedule of network infrastructure options with a total capacity of 14 gigawatts to be delivered as soon as practicable by 2033, and further options to be considered beyond that to bolster the State's energy resilience and plan for a net zero future.³⁵ The Infrastructure Planner will prepare future editions of the Network Infrastructure Strategy every 2 years³⁶ to inform the Consumer Trustee's Infrastructure Investment Objectives Report (Section 3.1), which guides investment in generation, storage and firming infrastructure in NSW.

In FY 2022-23, the Infrastructure Planner also:

- Selected ACE Energy as the first-ranked proponent for the role of Network Operator for the Central-West Orana REZ.
- Prepared the access scheme order for the Central-West Orana REZ.
- Prepared the draft access scheme order for the South West REZ.
- Identified the preliminary transmission corridor for the New England REZ.
- Did not make any recommendations to the Consumer Trustee.

In FY 2023-24, the Infrastructure Planner expects that it will:

- Lead interactive meetings with potential access seekers to engage with the first-ranked Network Operator to prepare quality bids for access rights in the Central-West Orana REZ.
- Commence procurement of Network Operator for the New England REZ.
- Undertake further investigation on the amount of new generation infrastructure to be built in the South West REZ.
- Continue planning network infrastructure in the Hunter-Central Coast REZ.
- Consider network infrastructure options and delivery options for the Illawarra REZ.

5.2 Administering REZ access schemes

The Central-West Orana REZ access scheme was declared and commenced in December 2022.³⁷ The *Renewable Energy Zone (Central-West Orana) Access Scheme Order 2022* appoints the Infrastructure Planner, EnergyCo, as the administrator of this access scheme.³⁸ The Infrastructure Planner reported that it had carried out the following tasks as part of exercising its functions in the access scheme:

- Determined the eligibility criteria for Central-West Orana REZ access rights. The Infrastructure Planner did this when participating in the Consumer Trustee's formal consultation with EnergyCo before the publication of the tender rules in March 2023.³⁹
- Determined the terms and conditions for granting access rights. The Infrastructure Planner did this as part of preparing the project development agreement in consultation with the market, Consumer Trustee and Scheme Financial Vehicle.
- Contributed to other tender collateral developed or currently in development such as (to be published) Tender Guidelines for the Q4 2023 tender, (to be published) Access Rights Addendum for Q4 2023 tender and Access Rights Information Paper published in June 2023.

5.3 Planning for PTIPs

PTIPs are network infrastructure projects located in NSW and identified in AEMO's most recent Integrated System Plan, and which are not REZ network infrastructure. Under the EII Regulation, the Infrastructure Planner must assess and make recommendations to the Minister regarding PTIPs, including network operators and contractors to carry out the project. On that recommendation, the Minister may authorise or direct the network operator to carry out the PTIP, but only if satisfied that it is appropriate in relation to the NSW Energy Security Target and is in the public interest.⁴⁰

In February 2022, Origin Energy announced that it would potentially close the Eraring Power Station early. Following that announcement, the Government agreed that the Waratah Super Battery and Hunter Transmission Project should be accelerated. In August 2022, the then Minister appointed EnergyCo to be the Infrastructure Planner for both of these projects.

The Waratah Super Battery provides a virtual transmission solution that will unlock latent capacity in the existing transmission system, allowing consumers in the Sydney, Newcastle and Wollongong demand centres to access more energy from existing generators.⁴¹

The Hunter Transmission Project will facilitate the transfer of electricity generated in the New England, Central-West Orana, and Hunter-Central Coast REZs into the Hunter-Sydney-Illawarra regions, where 80% of the state's electricity is consumed. The Infrastructure Planner is in the planning stage of the project.

In FY 2022-23, the Infrastructure Planner:

- provided the Waratah Super Battery Recommendation Report to the then Minister in October 2022, recommending appointment of Akaysha Energy as the System Integrity Protection Scheme Service Provider, to assist Transgrid to carry out the project. Planning approval was granted in February 2023 and construction commenced in May 2023⁴²
- commenced community engagement to improve the design and minimise the impacts of the Hunter Transmission Project
- provided information to the Regulator, the AER, to make revenue determination for the SIPS Service component of the Waratah Super Battery.

In FY 2023-24, the Infrastructure Planner will:

- procure Paired Generation Services and install the battery energy storage systems for the Waratah Super Battery
- release the overview and preliminary study corridor for Stage 1 and recommend a direction or authorisation of a Network Operator for the Hunter Transmission Project.

5.4 Contracts and agreements

The Infrastructure Planner is responsible for entering into contracts or other agreements in connection with the exercise of its functions under the EII Act.⁴³

In FY 2022-23, the Infrastructure Planner entered into contracts that include:

- A Network Operator Deed – the Infrastructure Planner entered into a Network Operator Deed with Transgrid, which set out certain rights and responsibilities of the parties about the delivery and operation of the Waratah Super Battery.
- Ancillary agreements – the Infrastructure Planner is also party to the Munmorah Site Tenure Agreement, Munmorah Site Works Agreement, Service Provider Commitment Deed, Munmorah Lease Option Agreement and Project Development Deed to facilitate the Waratah Super Battery.⁴⁴

5.5 Ministerial Direction

Under section 70(3) of the EII Act, the Minister has required information to be contained in this annual report pertaining to how the Infrastructure Planner has considered the Renewable Energy Sector Board's Plan and the First Nations Guidelines when exercising its functions. This information was included in the Infrastructure Planner's submission to IPART.⁴⁵

In FY 2022-23, the Infrastructure Planner required proponents tendering for the network operator in the Central-West Orana REZ, to demonstrate how they could meet or exceed requirements in the Renewable Energy Sector Board's Plan, the First Nations Guidelines and the region-specific guidelines. The Infrastructure Planner intends to develop an Industry and Aboriginal Participation Plan with the preferred bidder, which will set out the specific commitments.

EnergyCo issued to the then Minister an Infrastructure Planner Recommendation Report in relation to the Waratah Super Battery in October 2022. The report included recommendations to

inform the former Minister in setting the First Nations Guidelines and conditions for the Renewable Energy Sector Board Plan in the direction issued by the former Minister to Transgrid,⁴⁶

The conditions of the direction require Transgrid to prepare and implement:

- a First Nations Participation Plan in accordance with the First Nations Guidelines under section 4(1) of the Act
- an Australian Industry Participation Plan consistent with the Renewable Energy Sector Board's Plan under section 8(3) of the Act.

In delivering the objects of the Act, the Infrastructure Planner had consulted and engaged with First Nations communities, and promoted employment and income-generating activities by:

- providing additional resources to the Central-West Orana REZ First Nations Working Group to increase capacity to engage with renewable energy proponents in the development of their Industry and Aboriginal Participation Plans (also satisfying the Renewable Energy Sector Board plan)
- supporting the finalisation of the New England REZ First Nations region-specific guidelines, including developing additional resources to support the New England REZ First Nations Working Group
- investigating pre-employment programs and capacity building opportunities to support First Nations communities benefitting from potential employment and income generating opportunities in and from the renewable energy industry
- ongoing liaison with First Nations stakeholders including Local Aboriginal Land Councils, NSW Aboriginal Land Council and other NSW Government agencies, such as Aboriginal Affairs and Department of Regional NSW and local Councils.

The Infrastructure Planner reported 84 interactions with First Nations stakeholders and hosting of a First Nations working group for the Central-West Orana REZ every quarter. It also reported 5 meetings with First Nation stakeholders for the New England REZ.

Table 5.1 Functions of the Infrastructure Planner under the EII Act

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
Consultee about declarations of access regimes	Section 24(6)(a)	The Infrastructure Planner is to be consulted before the Minister declares an access scheme that will apply in a renewable energy zone, or part of a renewable energy zone.	Y	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>On 18 July 2022, Environment, Climate Change and Sustainability, within the Office of Energy and Climate Change, on behalf of the then Minister, wrote to EnergyCo as Infrastructure Planner for the Central-West Orana REZ to consult on the Draft Central-West Orana REZ Access Scheme Declaration. In December 2022, the then Minister declared the Central-West Orana REZ Access Scheme following consultation. It was published in the Gazette on 23 December 2022.</p> <p>On 1 May 2023, Environment, Climate Change and Sustainability, on behalf of the then Minister, wrote to EnergyCo as the Infrastructure Planner for the South West REZ to consult on the Draft South West REZ Access Scheme Declaration. The Infrastructure Planner did not provide a formal submission to the former Minister on the draft access scheme declaration as the Infrastructure Planner prepared the draft access scheme declaration (and consultation letters) with Environment, Climate Change and Sustainability and so was informally consulted in preparing the draft access scheme declaration. This access scheme is yet to be declared.</p>
Orders prohibiting connection to network infrastructure	Section 29(1)	The Infrastructure Planner may, by order served on a relevant operator, prohibit the relevant operator from allowing a proponent to connect proposed infrastructure to the relevant operator's network infrastructure.	N	The Infrastructure Planner did not exercise this function in FY 2022-23.
	Sections 29(2)-(5)	The Infrastructure Planner must seek and consider submissions from relevant parties ^c and must not make an order unless they are satisfied of the criteria in section 29(4).	Y	The Infrastructure Planner did not exercise the functions in FY 2022-23 as no order was made under section 29(1).
	Section 29(6)	The Infrastructure Planner is to publish guidelines on its website about the exercise of its functions under section 29.	Y	<p>The Infrastructure Planner did not exercise this function in FY 2022-23.</p> <p>The Infrastructure Planner published the draft guidelines on orders prohibiting connection to network infrastructure in REZs in FY 2021-22. No further actions had been undertaken to finalise the guidelines in FY 2022-23.</p>

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
Recommend REZ network infrastructure projects for renewable energy zone	Section 30	The Infrastructure Planner for a renewable energy zone (currently EnergyCo) is to assess and make recommendations to the Consumer Trustee about REZ network infrastructure projects required for the renewable energy zone.	Y	<p>The Infrastructure Planner did not exercise this function as it did not make any recommendations to the Consumer Trustee in FY 2022-23.</p> <p>In FY 2023-24, the Infrastructure Planner intends to make recommendations to the Consumer Trustee to authorise a network operator to carry out the Central-West Orana REZ network infrastructure project.</p>
Contracts	Section 63(4)(a)	The Infrastructure Planner has the function of contracting in connection with the exercise of its functions under the EII Act.	N	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>The Infrastructure Planner entered into a range of contracts to facilitate various REZs and PTIPs. Details are provided in section 5.4 of this report.</p>
Generation, storage and network infrastructure	Section 63(4)(b)-(c)	<p>The Infrastructure Planner is to investigate, plan, co-ordinate and carry out planning and design of generation infrastructure.</p> <p>The Infrastructure Planner is to investigate, plan, co-ordinate and carry out planning, design, construction and operation of storage and network infrastructure.</p>	Y	<p>The Infrastructure Planner exercised the functions in section 63(4)(b)-(c) in FY 2022-23.</p> <p>Generation infrastructure: The Infrastructure planner has undertaken a registration of interest process for developers of generation infrastructure and consulted with those developers when planning the relevant REZs.</p> <p>Storage infrastructure: In July 2022, the then NSW Government transferred the administration of the Emerging Energy Program and the Pumped Hydro Recoverable Grants Program (now the Long Duration Storage Recoverable Grants Program) to EnergyCo. The decision to transfer the administration of both programs was based on EnergyCo's functions under the <i>Energy and Utilities Administration Act 1987</i> (EUA Act), The EUA Act, the EII Act and existing delegations from Treasury together provide EnergyCo with the legal authority to administer both programs.</p> <p>In FY 2022-23, 5 recipients submitted 8 milestones, worth a total of \$13.72 million. These milestones were reviewed by the Program team and approved by the appropriate EnergyCo delegate.</p> <p>EnergyCo and WaterNSW negotiated a Funding Agreement to provide WaterNSW with a \$22.6 million grant to lead and accelerate pumped hydro feasibility studies (site investigations) on WaterNSW assets. The Funding Agreement was executed on 28 June 2023.</p>

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
				<p>Network infrastructure:</p> <p>In May 2023, the Infrastructure Planner published the Network Infrastructure Strategy for NSW. The strategy is a 20-year plan for the practical coordination of NSW network infrastructure to connect new generation and storage in NSW's 5 REZs and meet the objects set out in the EII Act.</p> <p>The Infrastructure Planner selected a first-ranked proponent to undertake development in the Central-West Orana REZ. As part of this process, early development work had been undertaken by and on behalf of EnergyCo in its capacity as Infrastructure Planner, to accelerate delivery of the REZ, facilitate social licence with host communities and coordinate with generation projects who, if awarded access rights, will connect to the REZ network infrastructure once built and connected. In May 2023, the Infrastructure Planner commenced discussion of REZ design with the first-ranked proponent and considered the connection strategy, optimisation of technical design, provisioning of system services, project development agreement, REZ wide coordination and optimising social licence outcomes.</p>
General functions	Section 63(5)	<p>Where EnergyCo is appointed Infrastructure Planner, EnergyCo may exercise the functions it has under Part 4 of the <i>Energy and Utilities Administration Act 1987</i> as the infrastructure planner under the EII Act to the extent reasonably necessary to:</p> <ul style="list-style-type: none"> a) enable the Infrastructure Planner to exercise its functions under the EII Act, and b) achieve the objects of the EII Act. 	N	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>The Infrastructure Planner may acquire land (by agreement or by compulsory process) under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> (EUA Act, section 15). The Infrastructure Planner acquired the whole of the freehold property located at 118 Neeleys Lane, Turill in March 2023. This land was acquired on market and without the need for the Infrastructure Planner to issue an Open Letter. In this instance, The Infrastructure Planner acquired the property in the same as any other member of the public looking to acquire a property.</p> <p>The Infrastructure Planner may make and enter into contracts in connection with the exercise of its functions (EUA Act, section 18). Details of contracts and agreements that the Infrastructure Planner has entered into are provided in section 5.4 of this report.</p>

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
				<p>A function of EnergyCo is to assist and advise, and make reports and recommendations to, the Minister in respect of matters relevant to the EUA Act and any other Act administered by the Minister (EUA Act, section 11(1)(c)). EnergyCo provided an Infrastructure Planner Recommendation Report to the then Minister on October 2022 in relation to the Waratah Super Battery. The primary recommendation being that the then Minister issue a direction to Transgrid as the Network Operator to carry out the project as a PTIP under s32(1)(b) of the EII Act. As required by s 32(2) of the EII Act, the report further defined the project scope to enable the Minister's direction to specify the project's location and description, requirements for development and construction, staging and sequencing of the planning, design and construction, and the date by which the network operator is to complete the planning, design and construction stages of the project.</p>
Annual reports	Section 70	The Infrastructure Planner must, as soon as reasonably practicable after the end of each financial year, provide the Regulator with a report on the exercise of the functions under the Act during the financial year.	Y	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>On 3 October 2023, the Infrastructure Planner provided to IPART a final report on the exercise of its functions under the EII Act for FY 2022-23.</p>
Delegation	Section 71	The Infrastructure Planner may delegate its functions, other than the power of delegation, to any person.	N	<p>The Infrastructure Planner did not exercise this function in FY 2022-23.</p> <p>On 13 September 2022, under s71(1) of the EII Act, the then Minister delegated to the Infrastructure Planner the consultation functions under s32(3) and s34(1) of the EII Act, in relation to the Waratah Super Battery and the Hunter Transmission Project.</p> <p>EnergyCo as the Infrastructure Planner for the Waratah Super Battery, in its capacity as the former Minister's delegate, consulted with the AER and IPART as the regulators for the purposes of s34(1)(c) of the EII Act, during the 2022-23 reporting period.</p>
Contribution determination	Clause 39	The Infrastructure Planner 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.	Y	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>In February 2023, the AER as Regulator made a contribution determination under section 56(1) of the EII Act. The Infrastructure Planner provided data for the Waratah Super Battery to the Scheme Financial Vehicle, which provided that data to the Regulator to verify and test. The AER audited the data and used the data to calculate the final contribution determination.</p>

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
Considerations	Clause 41 (s 63)	In exercising functions under Part 5 of the Act, the Infrastructure Planner must take into account the guidelines issued by the Minister under section 4 (guidelines about consultation and negotiation with the local Aboriginal community) of the Act and the plan approved by the Minister under section 8 (Plan for NSW renewable energy sector) of the Act.	Y	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>The former Minister issued the First Nations Guidelines and the Central-West Orana REZ region-specific First Nations Guidelines in August 2022 under section 4 of the EII Act. The Office of Energy and Climate Change published the NSW Renewable Energy Sector Board's Plan in September 2022.</p> <p>In relation to the Central-West Orana REZ, the Infrastructure Planner had considered the First Nations Guidelines and the Renewable Energy Sector Board Plan by requiring proponents tendering for the network operator role in the Central-West Orana REZ to demonstrate how they could meet or exceed the requirements in the First Nations Guidelines, region-specific First Nations Guidelines and the Renewable Energy Sector Board Plan.</p> <p>In relation to the Waratah Super Battery, EnergyCo issued to the then Minister an Infrastructure Planner Recommendation Report in October 2022. This report included recommendations to inform the former Minister in setting First Nation Guidelines and the Renewable Energy Sector Board Plan conditions, in the direction issued to Transgrid to carry out the Waratah Super Battery.</p>
Functions of the Infrastructure Planner	Clause 42C(1) (s 63(4)(d))	<p>The Infrastructure Planner may request the Consumer Trustee to conduct a competitive tender in relation to the granting or increasing of access rights—</p> <ul style="list-style-type: none"> a) under an access scheme, and b) in accordance with the declaration for the access scheme. 	N	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>The Infrastructure Planner and the Consumer Trustee agreed that the Consumer Trustee would conduct a combined competitive tender for the grant of access rights to the Central-West Orana Access Scheme and for the Long Term Energy Service Agreements.</p> <p>Under the Renewable Energy Zone (Central-West Orana) Access Scheme, the Infrastructure Planner required generation and storage projects that wish to connect to the Central-West Orana REZ network infrastructure to seek an access right through a competitive tender process to be conducted by the Consumer Trustee. This was done in accordance with clause 7 of the Access Scheme Order, where the Infrastructure Planner may only grant an access right to an eligible operator under the initial allocation if the Consumer Trustee has recommended the grant of an access right. The Central-West Orana Access Pre-Tender Stage started in May 2023 and the expression of interest to join the Pre-Tender Stage has closed.</p> <p>Tender Round 4 is scheduled to open in October 2023 to offer Central-West Orana REZ access rights along with Generation Long Term Energy Service Agreements.</p>
	Clause 42C(2) (s 63(4)(d))	The Infrastructure Planner for an access scheme must exercise:	Y	The Infrastructure Planner exercised this function in FY 2022-23.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
		<p>a) the access scheme functions for the access scheme if the Infrastructure Planner is appointed to administer the access scheme, or</p> <p>b) a particular access scheme function for the access scheme if the Infrastructure Planner is directed to exercise the function in the declaration for the access scheme.</p> <p>Clause 42C(3) sets out the access scheme functions for an access scheme.</p>		<p>EnergyCo is the Infrastructure Planner for the Central-West Orana REZ Access Scheme gazetted in December 2022. It has undertaken the following tasks as part of exercising those functions for the zone:</p> <ul style="list-style-type: none"> • Determined the eligibility criteria for the zone's access rights. This was done as part of Consumer Trustee's formal consultation with the Infrastructure Planner before the publication of the Tender Rules in March 2023 • Determined the terms and conditions for the granting access rights. This was done as part of preparing the project development agreement in consultation with the market, Consumer Trustee and Scheme Financial Vehicle • Contributed to other tender collateral developed or currently in development such as (to be published) Tender Guidelines for Q4 2023 tender, (to be published) Access Rights Addendum for Q4 2023 tender and Access Rights Information Paper published in June 2023.
	Clause 42D (s 63(4)(d))	<p>The Infrastructure Planner for a REZ to which an access scheme applies has the following functions:</p> <p>a) to administer, manage and make payments of money held for use in relation to a community purpose or employment purpose,</p> <p>b) make guidelines about the administration, management and payment of money under this clause.</p> <p>Subclause (1) prescribes the conditions for which the functions apply.</p>	N	This clause came into effect on 30 June 2023. We will report on this in FY 2023-24.
Assessments and recommendations by the Infrastructure Planner	Clause 43 (ss 30 and 63(4))	<p>The Infrastructure Planner must assess and make recommendations about the following—</p> <p>a) proposed REZ network infrastructure projects,</p> <p>b) priority transmission infrastructure projects in relation to which the Infrastructure Planner is appointed,</p> <p>c) network operators who may be authorised or directed to carry out—</p>	Y	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>As the appointed Infrastructure Planner for the Waratah Super Battery, EnergyCo was responsible for planning and undertaking early development works for the project and making assessments and recommendations to the former Minister regarding the final project scope and the proposed network operator for that project.</p> <p>EnergyCo prepared a Waratah Super Battery Infrastructure Planner Recommendation Report to the then Minister in October 2022, which sets out the Infrastructure Planner's assessment that conditions are satisfied to direct Transgrid to carry out the Waratah Super Battery. This related to the function under clause 43(1)(b), (c)(ii), d(ii) and (e) of the EII Regs.</p>

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
		<ul style="list-style-type: none"> i. a REZ network infrastructure project, or ii. a priority transmission infrastructure project. d) other persons who may assist the network operator to carry out— <ul style="list-style-type: none"> i. a REZ network infrastructure project, or ii. a priority transmission infrastructure project. e) the contractual arrangements that a network operator may be required to enter into to carry out a REZ network infrastructure project or priority transmission infrastructure project under an authorisation (the recommended contractual arrangements). <p>An assessment and recommendation made by the Infrastructure Planner in relation to a priority transmission infrastructure project must be provided to the Minister.</p>		<p>Under clause 43(1)(c), the Infrastructure Planner selected ACE Energy as the first-ranked proponent for the role of Network Operator at the Central-West Orana REZ.</p> <p>Under clause 43(1)(e), the Infrastructure Planner is working with ACE Energy to finalise and enter into a Commitment Deed confirming ACE Energy as the preferred tenderer for the Central-West Orana REZ network infrastructure project, and a Project Deed following an authorisation from the Consumer Trustee to appoint ACE Energy as the network operator. The Project Deed is the overarching agreement which governs the carrying out of the project by the Network Operator and provides the Infrastructure Planner with oversight of the Network Operator's activities. The Network Operator will need to enter into various ancillary contractual arrangements to enable it to carry out the project.</p>
	Clause 44 (s 30)	The technical specifications that the Infrastructure Planner must consider for REZ infrastructure projects are prescribed in this clause.	Y	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>Under clause 44(a), the Infrastructure Planner prepared technical specifications, developed by both in-house technical experts and technical advisors. The Infrastructure Planner used these technical specifications in reference designs and specifications for requests for tender for projects, and also in the Network Infrastructure Strategy published in May 2023 and project materials for public consultation for the Central-West Orana REZ Project Update published in September 2022.</p> <p>The specifications addressed matters including:</p> <ul style="list-style-type: none"> • proposed routes of the network infrastructure, including substation locations • connections between proposed and existing network infrastructure • the operating voltages and network capacity of the network infrastructure.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
				<p>Under clause 44(b), the Infrastructure Planner ensured safety and reliability of electricity infrastructure were assessed by including requirements for safety in the request for tender for projects. It also included a Network Operator Performance Regime that sets standards and commercial incentives to ensure an appropriate level of reliability of electricity supply.</p> <p>Under clause 44(c), the Infrastructure Planner required the Network Operator to comply with the National Electricity Rules, which include requirements about security of electricity supply under contractual agreements. For example, the Waratah Super Battery Network Operator Deed between EnergyCo and Transgrid requires Transgrid to discharge its obligations consistently with applicable Laws (which is defined to include the National Energy Rules and National Energy Law).</p>
Competitive assessment process	Clause 45 (ss 30(5)(a) and 63(4))	<p>The Infrastructure Planner may carry out a competitive assessment process in relation to—</p> <ul style="list-style-type: none"> a) a proposed REZ network infrastructure project, or b) a priority transmission infrastructure project in relation to which the Infrastructure Planner is appointed. <p>Subclauses (2)-(4) prescribes the requirements if the Infrastructure Planner carries out a competitive assessment process.</p>	N	<p>The Infrastructure Planner exercised this function in FY 2022-23.</p> <p>EnergyCo is the Infrastructure Planner for the Central-West Orana REZ. Under clause 45(1)(a), EnergyCo selected ACE Energy as the first-ranked proponent as the Network Operator in April 2023 after a competitive tender process that commenced in December 2021. The competitive assessment process involved requesting proposals from 3 shortlisted network operator proponents.</p> <p>The former Minister appointed EnergyCo as the Infrastructure Planner for the Waratah Super Battery under the Priority Transmission Infrastructure Project Direction (Waratah Super Battery Project) Order 2022 that commenced in October 2022. Under clause 45(1)(b), following a competitive procurement process conducted throughout 2022, EnergyCo recommended in the Waratah Super Battery Infrastructure Planner Recommendation Report that a subsidiary of Akaysa Energy provide the System Integrity Protection Scheme (SIPS) battery services to assist Transgrid to carry out the Waratah Super Battery.</p> <p>The Infrastructure Planner also undertook a competitive assessment process to identify suitable "paired generator" service providers, which could curtail generation load in the event the System Integrity Protection Scheme was activated to ensure security of electricity supply. That process is ongoing and is expected to conclude during the FY 2023-24.</p>
Revenue determinations	Clause 49(1),(2) (s 38(10)(a))	The Infrastructure Planner is to be consulted by the Regulator before the Regulator makes a revenue determination.	Y	The Infrastructure Planner exercised this function in FY 2022-23.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the Infrastructure Planner ^b
		The Infrastructure Planner must give the Regulator all information about an infrastructure project that the Regulator considers necessary to make the revenue determination, including information about or obtained from a competitive assessment process.		In December 2022, the AER as Regulator published a revenue determination setting out amounts to be paid by the Scheme Financial Vehicle to Transgrid for the SIPS battery service component of the Waratah Super Battery. The Infrastructure Planner provided the AER with information about the process and outcomes of the competitive assessment process in accordance with the requirements in the AER Revenue Determination Guideline for NSW contestable network projects .

Notes:

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

b. The information in this column is drawn from the annual reports provided by the Roadmap entities to IPART in accordance with section 70(1) of the EII Act. In some cases, we have updated this column to incorporate additional information and points of clarification provided by each entity in subsequent correspondence.

c. Under Section 29(3), the infrastructure planner must seek and consider submissions from the relevant operators in the local area, the proponent and the local council in the local area.

Chapter 6 »

Regulator – Australian Energy
Regulator (AER)

06

On 12 November 2021, the NSW Government appointed the AER as a Regulator under the NSW Electricity Infrastructure Roadmap (Roadmap). The Commonwealth and NSW Governments executed a conferral agreement which sets out the AER's functions as Regulator.⁴⁷

The key functions of the Regulator under the EII Act include:

- Issuing guidelines in relation to the exercise of functions by the persons and bodies appointed under the EII Act⁴⁸
- Making 5-year revenue determinations of the amount payable to network operators undertaking network infrastructure projects⁴⁹
- Making annual contribution determinations in relation to the Electricity Infrastructure Fund⁵⁰
- Approving a risk management framework developed by the Consumer Trustee⁵¹
- Reviewing tender rules in relation to LTESAs.⁵²
- Consulting with the Minister and the Consumer Trustee.⁵³

A summary of key functions exercised by the AER as Regulator during the 2022-23 financial year is provided below. [Table 6.1](#) lists each of the Regulator's functions and details if, and how, each function was exercised.

6.1 Revenue determinations

The AER, as Regulator, is responsible for determining the amount payable to network operators for network infrastructure projects authorised by the Consumer Trustee or authorised or directed by the Minister.⁵⁴ This includes the calculation of the prudent, efficient, and reasonable capital costs of these projects, which is referred to in the EII Act as the 'transmission efficiency test'.

6.1.1 Revenue determination for the Waratah Super Battery Project SIPS service

In 2022 the AER published a revenue determination for the Waratah Super Battery Project System Integrity Protection Scheme (SIPS) battery service. The AER also published an annual revenue adjustment decision in June 2023 for the Waratah Super Battery Project SIPS battery service.

6.1.2 Revenue determination for the Waratah Super Battery Project non-contestable elements (SIPS control and network augmentations)

On 30 June 2023, the AER received a revenue proposal for the non-contestable elements of the Waratah Super Battery Project. The public version of the proposal was published on the AER's website, and the AER are currently progressing the determination.⁵⁵

6.1.3 Revenue determination guidelines

The AER published two determination guidelines on how the AER will assess capital costs and make revenue determinations for network operators to undertake network projects under the EII Act.⁵⁶ The determination guidelines recognise that network operators can be selected in one of two ways:

1. Under a contestable process - a network operator is selected through a competitive process, run by the Infrastructure Planner, to construct and operate the network infrastructure project.
2. Under a non-contestable process - a network operator is directly selected by the Infrastructure Planner to construct and operate the network infrastructure project.

The guidelines are the:

1. *Revenue determination guideline for NSW contestable network projects*, and
2. *Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects*.⁵⁷

The *Revenue determination guideline for NSW contestable network projects* was published in August 2022 and is for projects that have a competitive assessment process. The purpose of the Guideline is to give effect to the AER's regulatory functions under the EII Act and EII Regulation in relation to revenue determinations. The guidelines set out the processes and methods the AER will use to make a revenue determination, along with the roles and responsibilities of each Roadmap entity.

The AER applied this guideline in making the Waratah Super Battery Project – SIPS battery service revenue determination and annual adjustment during 2022-23.⁵⁸ It is also applying the guideline in the early stages of other contestable network infrastructure projects under consideration.

Some elements of the Waratah Super Battery Project were not contestable. The *Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects* was published in April 2023 and is for projects where a network operator is authorised to carry out a project without competitive assessment. This guideline is being applied in assessing the Waratah Super Battery Project – network augmentation and SIPS control system revenue proposal received in June 2023.⁵⁹

The AER has also published a guidance note on the application of the post-tax revenue model to non-contestable revenue determinations under the EII Act.

6.1.4 Supporting guidelines

In addition to the guidelines above, the AER developed draft supporting guidance in relation to:

- The application of incentive schemes
- The treatment of confidentiality claims for information provided to the AER
- Cost allocation requirements for network operators
- Legal and functional separation for network operators.

The AER has been working with the OECC to further define the need for legal and functional separation, and the interactions with the transmission ring fencing guideline under the National Electricity Rules. This will be resolved in 2024.

6.2 Contribution determination

The AER must make an annual contribution determination that sets out the amount required for the Scheme Financial Vehicle to be able to make payments that are required under the EII Act, including the amount required for the scheme financial vehicle to meet its liabilities as they fall due. The determinations include a minimum prudent cash balance and the amount required to be paid by each NSW distribution network service provider.

The Scheme Financial Vehicle recovers these amounts from the NSW distribution network service providers, which then pass the costs on to retailers and in turn NSW electricity customers through their retail bills.⁵⁹ The contribution determination process allows the Scheme Financial Vehicle to have sufficient funds to meet its liabilities as they fall due. These include the cost of underwriting new renewable generation or storage investment, the capital and operating costs of network investment and the administration costs of the Roadmap entities.

In February 2023 the AER made and gazetted a contribution determination. The contribution determination was made through the application of a guideline (see section 6.2.1 below) and calculation template, and with input from all scheme entities.

6.2.1 Contribution determination guidelines

The contribution determination guidelines set out the process for collection of actual and forecast data from scheme entities and the calculation of contribution determination amounts, apportioned to the NSW Distribution Network Service Providers (DNSPs). They include a calculation template to be used when calculating the contribution determination amounts (the template was updated in November 2022 to correct for minor issues).⁶⁰

The guidelines also detail the AER's approach to assessing the Infrastructure Planner's procurement strategy and process.

In 2023, following the gazettal of the first contribution determination, the AER initiated an evaluation of the contribution determination process, including gathering feedback from scheme entities. This evaluation will result in the revision of the contribution determination guideline and template ahead of the initiation of the process for 2024-25. This evaluation relates to the first contribution determination and is not planned to be a regular occurrence.

⁵⁹ In December 2021 the AER determined the contribution determination is a jurisdictional scheme which meets the eligibility criteria in the National Electricity Rules. A jurisdictional scheme makes recovery of scheme costs more administratively efficient for Distribution Network Service Providers and allows costs to be recovered through the AER's annual pricing review assessments.

6.3 Risk management framework

The Consumer Trustee must prepare a risk management framework to protect the financial interests of NSW consumers with respect to LTESAs (refer Section 4.4). The EII Act requires the risk management framework developed by the Consumer Trustee be approved by the AER.⁶¹

On 27 June 2022, the AER received the risk management framework from the Consumer Trustee and the AER approved the framework on 8 July 2022.⁶²

In approving the risk management framework, the AER assessed the framework against the requirements set out in clause 32 of the EII Regulation, and according to the purpose set out in the EII Act that a risk management framework is to protect the financial interests of NSW electricity customers in connection with the risks associated with LTESAs.⁶³

6.4 Tender rules

Under the EII Act, the Consumer Trustee is required to consult with the AER on its proposed tender rules for the competitive tender process for LTESAs.⁶⁴

The AER was consulted by the Consumer Trustee on tender rules for LTESAs in:

- March 2022 and in July 2022 before the Consumer Trustee released tender rules for LTESAs on 18 July 2022.
- January and February 2023 before the Consumer Trustee gazetted a new set of tender rules for LTESAs, that replaced the earlier version, on 24 March 2023.⁶⁵

6.5 Other network infrastructure projects

In addition to the Waratah Super Battery Project the AER consulted with the Infrastructure Planner in 2022-23 on processes for the:

- Waratah Super Battery paired generation services
- Central West Orana REZ network operator procurement
- New England REZ network operator procurement
- Hunter Transmission Network Project
- Hunter Central Coast REZ design.

This consultation has generally been in the form of regular updates and discussions, and the inclusion of the AER as an observer in competitive procurement processes for contestable projects.

Table 6.1 Functions of the Regulator (AER) under the EII Act

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
Consideration of recommendations by the Infrastructure Planner	Section 31(3)	The Regulator must not disclose the maximum amount for development and construction of the REZ network infrastructure to any person.	Y	The Consumer Trustee has not authorised a network operator to carry out a REZ network infrastructure project.
Consultee for priority transmission infrastructure projects	Section 34(1)	The Minister must consult the Regulator before directing a network operator to carry out a priority transmission infrastructure project.	Y	<p>The AER was consulted in advance of the former Minister's decision to direct Transgrid to carry out the Waratah Super Battery project as a PTIP.</p> <p>The AER was consulted by EnergyCo (pursuant to a delegation of consultation functions by the former Minister).</p>
Consultee for authorising a network operator	Section 36(3)	The Minister must consult with the Regulator before authorising a network operator to carry out a priority transmission infrastructure project.	Y	<p>The AER was consulted in advance of the former Minister's decision to direct Transgrid to carry out the Waratah Super Battery project as a PTIP.</p> <p>In this Division the definition of authorisation includes a direction under section 32 of the EII Act. No other PTIPs have been directed or authorised.</p>
Regulator to take into account principles	Section 37(1)	<p>In exercising its functions in relation to the authorisation of a network operator, the Regulator is to take into account the following principles—</p> <ul style="list-style-type: none"> a) a network operator is entitled to recover the prudent, efficient and reasonable costs incurred by the network operator for carrying out the infrastructure project, b) incentives should be given to network operators to promote economic efficiency, 	Y	<p>The AER has published guidance^c about revenue determinations for contestable and non-contestable projects which sets out how the principles listed in Section 37(1) and Clause 46 of the EII Regulations are taken into account.</p> <p>The AER is working with the OECC on implementing incentives for Network Operators to promote efficiency. This work is expected to be finalised in 2024.</p>

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
		<ul style="list-style-type: none"> c) a network operator is entitled to revenue for the ongoing ownership, control and operation of an infrastructure project that is commensurate with the regulatory and commercial risks to the network operator, d) a network operator is entitled to be informed of material issues being considered by the Regulator under this Division, e) other principles prescribed by the regulations. 		
Making revenue determinations	Section 38	The Regulator is to determine the amount payable to network operators for network infrastructure projects. Procedural requirements for the determination are set out in sections 38(2)-(4) and (6).	Y	<p>The revenue determination guidelines were applied for decisions in the 2022-23 financial year.^d</p> <p>The decisions so far relate to contestable processes for one PTIP directed by the former Minister. As such, a maximum amount mentioned in Section 38(6) is not required to be notified by the consumer trustee. A revenue proposal^e was also received in June 2023 for the non-contestable elements of the Waratah Super Battery Project and is currently being assessed.</p>
	Section 38(5)	The Regulator is to publish guidelines on its website about the transmission efficiency test.	Y	The guidelines which cover the transmission efficiency test are the revenue determination guidelines, which have been published on the AER website. ^f
	Section 38(7)	The Regulator may, by written notice to a network operator, require the network operator to provide information to the Regulator that the Regulator considers necessary to enable the Regulator to make a determination. Subsection (8) prescribes the requirements for a notice if the Regulator issues a notice.	N	<p>Information notices have been issued to Transgrid as the network operator for the Waratah Super Battery Project.</p> <p>The AER issued information notices relating to revenue determinations for both contestable and non-contestable projects. The process and templates developed will be used as the basis for future information notices under this section.</p>
Reviewing determinations	Section 40(1)	<p>The Regulator is, in accordance with the regulations, to remake a determination under section 38—</p> <ul style="list-style-type: none"> a) once every 5 years, and 	Y	The first determination to be remade under section 40(1)(a) will be the SIPS battery service and will need to be made by 1 July 2028.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
		b) at any time the Consumer Trustee directs.		
	Section 40(2)	The Regulator may review and remake a determination at any time, subject to the regulations.	N	The AER did not exercise this function in FY 2022-23.
Tendering for LTESAs	Section 47(1)	The Regulator may authorise the Consumer Trustee to not conduct a competitive tender for LTESAs.	N	The AER did not exercise this function in FY 2022-23.
Consultee on tendering rules	Section 47(6)	The Regulator is to be consulted before the Consumer Trustee makes tendering rules under section 47(5)	Y	The tender rules for long term energy service agreements (LTESAs) were released on 18 July 2022 following consultation with the AER, who gave feedback in March 2022 and in July 2022. On 24 March 2023, the consumer trustee gazetted a new set of tender rules with respect to LTSAs. The AER was consulted on 20 January 2023 and responded on 8 February 2023. This consultation is documented on the AER website. ⁹
Risk management framework	Section 51(3),(6)	The Regulator must approve the risk management framework prepared by the Consumer Trustee. The Minister may require the Regulator to review an approved risk management framework.	Y	On 27 June 2022, the AER received the risk management framework from the Consumer Trustee. ^h The AER approved the risk management framework on 8 July 2022. ⁱ The AER fulfilled this function pursuant to section 51 of the EII Act and clause 32 of the EII Regulations, and according to the purpose set out in section 51(1) EII Act that a risk management framework is to protect the financial interests of NSW electricity customers in connection with the risks associated with LTESAs.
Regulator to make annual contribution determinations	Section 56(1)	The Regulator is to determine an amount for a financial year (a contribution determination) that is required for the scheme financial vehicle to be able to make the payments from the Fund that are required under the Act, including the amount required for the scheme financial vehicle to meet its liabilities as they fall due.	Y	The contribution determination for 2023-24 was gazetted on 24 February 2023 ^j The contribution determination was made through the application of the contribution determination guideline ^j and using the revised calculation template. ^k The gazette notice included: <ul style="list-style-type: none"> • the total contribution determination amount • the minimum prudent cash balance • the amounts required to be paid by each NSW distribution network service provider • details of how the contribution determination was made.
	Section 56(2)-(5)	The purpose of the contribution determination is to determine the amount required to be recovered from distribution network service providers (DNSPs).	Y	The contribution determination for 2023-24 was made on 3 February 2023 and gazetted on 24 February 2023. ^k The contribution determination was made through the application of the contribution determination guideline ^j and using the revised calculation template. ^l The gazette notice included: <ul style="list-style-type: none"> • the total contribution determination amount • the minimum prudent cash balance

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
		<p>The amount determined by the Regulator is to include a minimum prudent cash balance for the Fund and the amount required to be paid by each DNSP.</p> <p>The contribution determination must contain details of how it was made, and other information prescribed by the regulations. It must be published in the Gazette no later than 28 February before the beginning of the financial year to which it applies.</p>		<ul style="list-style-type: none"> the amounts required to be paid by each NSW distribution network service provider details of how the contribution determination was made.
	Section 56(6)	In making a contribution determination, the Regulator must consult with the Financial Trustee and take into account the matters prescribed by the regulations.	Y	<p>In making its contribution determination, the AER consulted with the Financial Trustee as required by section 56(6)(a) of the EII Act.</p> <p>Table 1 of the gazette notice summarises how the AER has taken the matters listed in regulation clause 35 into account.</p>
	Section 56(7)	The Regulator may request the Scheme Financial Vehicle provide the Regulator with information the Regulator considers necessary to enable the Regulator to make a contribution determination.	N	The AER sent a request for information to the scheme financial vehicle on 30 September 2022 to initiate the contribution determination process for the 2023-2024 target year.
	Section 57(1)	The Regulator may, by further order published in the Gazette, vary a contribution determination in certain circumstances.	N	The AER did not exercise this function in FY 2022-23.
	Section 57(2)	The Regulator is to publish guidelines on its website about the exercise of the Regulator's functions under this section.	Y	<p>The AER published a guideline setting out how it makes contribution determinations^m The publication of the guideline followed a public consultation period on the published drafts which closed on 29 July 2022.</p> <p>In 2023 the AER initiated an evaluation of the contribution determination process, including gathering feedback from scheme entities. This evaluation will result in the revision of the contribution determination guideline and template ahead of the initiation of the process for the 2024-25 period.</p>

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
Guidelines	Section 64(4)(a)	The Regulator has the function of issuing guidelines in relation to the exercise of functions by the persons and bodies appointed under the Act (see below the entry for clause 42 of the regulations.)	Y	The AER has published three guidelines in relation to the Act: <ul style="list-style-type: none"> • Revenue determination guideline for NSW contestable network projects, 19 August 2022 • Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects, 27 April 2022 • NSW contribution determination guideline, 23 September 2022. • The AER published a series of draft supporting guidelines for application in the NSW REZ. This work will be finalised in 2024.
Annual Reports	Section 70(2)	The regulator must prepare an annual report on the exercise of its functions under the EII Act (see conferral agreement) ⁿ		The AER sent an annual report to IPART, following a request for information.
Delegation	Section 71	The Regulator may delegate any of their functions, other than the power of delegation, to a person of a class prescribed by the regulations.	N	The AER has not exercised any delegations under this provision of the EII Act.
Penalty notices	Section 76	The AER (as an authorised officer) ^o may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.	N	The AER has not issued any penalty notices.
Contribution determination	Clause 35	In making a contribution determination, the Regulator must take into account the matters listed in the clause.	Y	The AER gazetted its contribution determination for 2023-24 on 24 February 2023. ^p Table 1 of the gazette notice summarises how the AER has taken the matters listed in regulation clause 35 into account.
	Clause 36	The Regulator must, within 1 week after a contribution determination is published in the Gazette, give each distribution network service provider a notice setting out the percentage of the contribution determination relating to LTESAs for generation infrastructure.	Y	<p>The AER gave these notices to the NSW distribution network service providers within the indicated time limit.</p> <p>These percentages are outputs of the contribution determination template but are provided confidentially for each of the distribution network service providers due to their commercially sensitive nature.</p>

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
	Clause 39	The Regulator may require the consumer trustee, financial trustee and Infrastructure Planner to provide information to the Regulator where the Regulator considers it is reasonably necessary to enable the Regulator to make a contribution determination.	N	The AER sent an information request to EnergyCo (infrastructure planner) in December 2022 for additional information necessary for making the contribution determination for 2023-24.
Functions of the Regulator	Clause 42	<p>The Regulator must—</p> <ul style="list-style-type: none"> a) issue guidelines for network operators about the following— <ul style="list-style-type: none"> i. the legal separation of the entity through which a network operator conducts regulated activities from any other entity through which it conducts business, ii. the establishment and maintenance of consolidated and separate accounts for regulated activities and other activities conducted by the network operator, iii. the limitations on the flow of information from or within the network operator if there is the potential for a competitive advantage or disadvantage to arise, and b) set standards about the legal and functional separation of the regulated activities of a network operator from other activities of the network operator, and 	Y	As commented for section 64(4) of the EII Act, the AER will exercise this function by publishing supporting guidelines. This work will be finalised in 2024.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
		c) monitor compliance by network operators with the standards.		
Consultee for competitive assessment process	Clause 45(4)	The Regulator is to be consulted and, if it has requested, be provided information by the Infrastructure Planner, before and during a competitive assessment process.	Y	<p>The infrastructure planner has consulted the AER in 2022-23 for the competitive assessment processes it is undertaking.</p> <p>This consultation has generally been in the form of regular updates and discussions, and the inclusion of the AER as an observer in the various tender evaluation panels. The AER will request information for all competitive assessment processes as set out in their guideline.⁹</p>
Competitive assessment process	Clause 45(5)	<p>In the exercise of the Regulator's functions under Part 5 of the Act, the Regulator may rely on and adopt information provided to the Regulator by the Infrastructure Planner if—</p> <p>a) the Infrastructure Planner obtained the information from a competitive assessment process, and</p> <p>b) the Regulator is satisfied that the competitive assessment process was genuine and appropriate.</p>	N	In making the revenue determination for Waratah Super Battery Project SIPS battery service, ^f the AER relied on and adopted information provided by the infrastructure planner relating to the relevant competitive assessment process.
Principles for Regulator	Clause 46	The regulations prescribe principles that the Regulator must follow when making revenue determinations.	Y	The AER follows these principles when making revenue determinations, as described in the guidelines ⁵
Guidelines	Clause 47	The Regulator must publish guidelines on its website about revenue determinations.	Y	The AER published guidelines ^t on how it will undertake a transmission efficiency test and revenue determinations.
Guidelines about non-contestable revenue determinations	Clause 47A	The regulations prescribe the requirements for the Regulator's guidelines for non-contestable revenue determinations. The Regulator must make a non-contestable revenue determination in accordance with these guidelines.	Y	The requirements are reflected in the determination guideline. The AER did not make a non-contestable revenue determination in 2022-23.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
Guidelines about non-contestable revenue determinations must include schemes and models	Clause 47B	The regulations prescribe the required schemes and models to be included in the Regulator's guidelines for non-contestable revenue determinations.	Y	The application of these schemes and models are described in the AER's guideline. The AER published a guidance note on the application of the post-tax revenue model. ^u The AER plans further guidance relating to incentive schemes for non-contestable projects in the third quarter of 2023. This will be a supporting guidance note.
Amendment of Regulator's guidelines	Clause 47C	The regulations prescribe the requirements if the Regulator amends its guidelines.	Y	The AER has not amended its revenue determination guidelines for contestable and non-contestable projects.
Making non-contestable revenue determinations	Clause 47D	The regulations prescribe the way the Regulator must make non-contestable revenue determinations.	Y	The AER did not make a non-contestable revenue determination in 2022-23.
Network operator to give information to Regulator	Clause 48	The Regulator may require the provision of information from network operators.	N	The AER has issued information notices to Transgrid as the network operator for the Waratah Super Battery Project. The AER has issued information notices relating to revenue determinations for both contestable and non-contestable projects. These will be used as the model for future information notices under section 38(7).
Consultation with the Infrastructure Planner and Consumer Trustee	Clause 49	The Regulator must consult the Infrastructure Planner before making a revenue determination. If the revenue determination relates to a REZ network infrastructure project, the Regulator must also consult the Consumer Trustee.	Y	The AER consulted the infrastructure planner before the revenue determination was published for Waratah Super Battery project – SIPS battery service (contestable) . As the SIPS battery service revenue determination related to a priority transmission infrastructure project, the AER did not formally consult with the consumer trustee.
Timing for making revenue determinations	Clause 50	Provides the timeframes within which the Regulator must make a revenue determination in relation to a network operator and details the requirements of the Regulator if it fails to meet the timeframes.	Y	The revenue determination for the Waratah Super Battery project – SIPS battery service (contestable) was published 42 business days after the AER received the proposal. The AER made only one revenue determination in 2022-23.
Components of non-contestable revenue determinations	Clause 50A (s 38(2)(d))	The regulations prescribe other components the Regulator is to include in a non-contestable revenue determination.	Y	The AER did not make a non-contestable revenue determination in 2022-23. The AER guideline ^y sets out how the AER will make a determination and describes the inclusion of the components prescribed in this clause 50A.
Content and publication	Clauses 51-52	Provides the content the Regulator must include in the revenue determinations.	Y	The revenue determination for the Waratah Super Battery project – SIPS battery service (contestable) included a schedule of payments and how amounts would be adjusted. The AER made only one revenue determination in 2022-23.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
	Clause 53(1)-(4)	<p>The Regulator must publish the following on its website—</p> <ul style="list-style-type: none"> a) if a revenue determination is made or remade— <ul style="list-style-type: none"> i. the revenue determination, and ii. the reasons for making the revenue determination, if an adjustment is made to a revenue determination under clause 51 that did not require the revenue determination to be reviewed and remade— an updated schedule of amounts required to be paid to the network operator. There are some exemptions to publishing in Clause 53(4). 	Y	<p>The AER published a revenue determination for the Waratah Super Battery Project, including the reasons for making the revenue determination.</p> <p>The AER also published an annual revenue adjustment decision for the Waratah Super Battery Project (with a revised schedule of payments), which did not require the revenue proposal to be remade.</p> <p>Some of the information contained in the revenue determination and annual revenue adjustment decision was not published as allowed for in Clause 53(4), because the information was considered confidential or commercially sensitive.</p>
	Clause 53(5)-(6)	The Regulator may publish information given to it under Clause 48 that relates to a non-contestable revenue determination. There are some restrictions on publishing this information in Clause 53(6).	N	The AER received a revenue proposal in June 2023 for the non-contestable elements of the Waratah Super Battery Project. ^w The AER published a public version of the proposal (subject to confidentiality claims) on the AER's website.
Review of errors in revenue determinations	Clause 54	<p>The Regulator may review and remake a revenue determination to the extent necessary to correct—</p> <ul style="list-style-type: none"> a) a material error, misdescription or miscalculation, or b) an error resulting from the provision of false or materially misleading information to the Regulator. 	N	The AER has not remade a revenue determination.

Function area	Refa	Function	Mandatory (Y/N)	Activity, as reported to IPART by the AER ^b
		The regulations prescribe the persons the Regulator must consult before reviewing or remaking a revenue determination under Clause 54(1).		

Notes:

- a. In this column, references to sections are to sections of the EII Act, while references to clauses are references to clauses of the regulations.
- b. The information in this column is drawn from the annual reports provided by the Roadmap entities to IPART in accordance with section 70(1) of the EII Act. In some cases, we have updated this column to incorporate additional information and points of clarification provided by each entity in subsequent correspondence.
- c. [Revenue determination guideline for NSW contestable network projects](#), 19 August 2022; [Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects](#), 27 April 2023; [Guidance note - Amendments to NER PTRM for EII revenue determinations](#), 1 June 2023.
- d. [Revenue Determination for Waratah Super Battery project – SIPS battery service \(contestable\)](#), 14 December 2022; [Annual adjustment for Waratah Super Battery project – SIPS battery service \(contestable\)](#), 16 June 2023.
- e. [Revenue proposal for Waratah Super Battery project – network augmentation and SIPS control system \(non-contestable\)](#), 30 June 2023.
- f. [Revenue determination guideline for NSW contestable network projects](#), 19 August 2022; [Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects](#), 27 April 2023.
- g. <https://www.aer.gov.au/networks-pipelines/nsw-renewable-energy-zones>.
- h. [Risk Management Framework](#), AEMO Services, July 2022.
- i. [AER letter to Consumer Trustee – Approval of risk management framework](#), 8 July 2022.
- j. [NSW Gazette Number 88](#), 24 February 2023.
- k. [NSW contribution determination guideline](#), 23 September 2022.
- l. [NSW contribution determination template](#), 24 November 2022.
- m. [NSW contribution determination guideline](#), 23 September 2022; [NSW contribution determination template](#), 24 November 2022.
- n. [Agreement - Conferral of functions on the Australian Energy Regulator under the Electricity Infrastructure Investment Act 2020 \(NSW\)](#).
- o. Clause 3A prescribes the AER is an authorised officer.
- p. [NSW Gazette Number 88](#), 24 February 2023.
- q. [Revenue determination guideline for NSW contestable network projects](#), 19 August 2022.
- r. [Waratah Super Battery project – SIPS battery service \(contestable\)](#), 14 December 2022.
- s. [Revenue determination guideline for NSW contestable network projects](#), 19 August 2022; [Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects](#), 27 April 2023.
- t. [Revenue determination guideline for NSW contestable network projects](#), 19 August 2022; [Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects](#), 27 April 2023.
- u. [Guidance note - Amendments to NER PTRM for EII revenue determinations](#), 1 June 2023.
- v. [Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects](#), 27 April 2023.
- w. [Revenue proposal for Waratah Super Battery project – network augmentation and SIPS control system \(non-contestable\)](#), 30 June 2023.

Chapter 7 »

Regulator - IPART

07

IPART was appointed as Regulator under section 64(1) of the EII Act on 17 December 2021.⁶⁶ In its role as Regulator, IPART has three key functions under the EII Act:

- Assessing whether the Renewable Energy Sector Board Plan protects the financial interests of NSW electricity customers, and is consistent with Australia's international trade obligations.
- Preparing annual reports on the exercise of functions under the EII Act by the Consumer Trustee, Financial Trustee, Infrastructure Planner and Regulator.
- Auditing the performance of the Consumer Trustee, Financial Trustee, Scheme Financial Vehicle, and Infrastructure Planner.

Most other regulatory functions under the EII Act have been assigned to the AER, as a co-Regulator.

A summary of key functions exercised by IPART during FY 2022-23 is provided below. [Table 7.1](#) lists each of IPART's functions and details whether, and how, each function was exercised.

7.1 Renewable Energy Sector Board's plan

The Renewable Energy Sector Board (Board) is established under the EII Act to provide advice to the Minister on the operation of the renewable energy sector and the manufacture and construction of infrastructure in the sector.⁶⁷ The Board's membership is prescribed by the EII Act – members are appointed by the Minister and must include representatives of certain groups, including unions, employers, engineers, and NSW electricity customers.⁶⁸

The Board must prepare a plan setting out how, in a cost-effective way, to maximise locally produced and supplied goods and services, and employment of local workers, and foster opportunities for apprentices and trainees, into the construction of new electricity infrastructure in NSW.⁶⁹ The Board's members are required to reach majority agreement on the plan.⁷⁰

The Consumer Trustee must take the Board's plan into account when exercising its functions under the EII Act. In line with this requirement, the plan would be considered for example in the design of the LTESA tenders and REZ access rights for generators.

IPART may recommend the plan to be approved by the Minister only if it is satisfied that the plan:

- protects the financial interests of NSW electricity customers
- is consistent with Australia's international trade obligations.

As required under the EII Act, IPART completed its first review of the plan in July 2022. It conducted independent analysis to determine the above requirements were met and recommended the plan to the then Minister for approval.

The plan has subsequently been approved by the former Minister and came into effect when published on the OECC's website in September 2022. The NSW Government has also released a response to the Board's advice on building the capacity and capability of the renewable energy sector. The NSW Government supports, or supports in principle, all of the Board's recommendations in the plan. The response⁷¹ is available on the [NSW Government's website](#) along with independent analysis⁷² of costs and economic benefits of the plan.

IPART may need to review revisions to the NSW Renewable Energy Sector Board Plan in the future.

7.2 Annual report

As Regulator, IPART must prepare an annual report on the exercise of functions under the EII Act by the Consumer Trustee, Financial Trustee, and Infrastructure Planner. It must also report on the functions exercised by both Regulators – IPART and the AER. The legislated timeframe means that the annual report does not include analysis and insight beyond the information reported to IPART by the Roadmap entities. In future, performance audits may enable IPART to more thoroughly assess the performance of each entity (see section 7.3).

The annual report must be provided to the Minister no later than 4 months after the end of the financial year to which the report relates. This annual report covers FY 2022-23 and is due to the Minister by 31 October 2023.

The FY 2021-22 annual report was delivered to the then Minister and published on IPART's website on 31 October 2022. It reflected the early stages of the Roadmap and that it was still in preliminary design and establishment phase. It did not include the Financial Trustee as it was yet to be appointed and the Scheme Financial Vehicle had not been established.

This annual report includes reports for the Financial Trustee for the first time and sets out how the entities delivered on a wider range of functions.

Future annual reports will identify linkages between the annual report and any performance audits undertaken during or prior to the reporting period. Additionally, the annual reports may include reporting on progress, summary of data collected for the Roadmap or other relevant statistics, or stakeholder feedback.

7.3 Performance audits

IPART is to audit the performance of the different entities that perform functions under the EII Act, including the Consumer Trustee, the Infrastructure Planner, the Financial Trustee and the Scheme Financial Vehicle.⁷³

The regulations may make provision for:

- matters that may be the subject of an audit
- additional entities to be audited
- functions of the auditor
- the conduct of the audit
- reporting on an audit including publication of an audit report.⁷⁴

The performance audits will provide information to the Minister and the public about how well the Roadmap, and the functions of the Consumer Trustee, Financial Trustee, Scheme Financial Vehicle and Infrastructure Planner under the EII Act, are delivered. Ultimately, they aim to improve administration and promote accountability and transparency.

During 2022-23 IPART provided comment on a proposed performance audit regulation. In the 2023-24 financial year it expects to develop a performance audit framework and prepare a forward work program to audit Roadmap entities in future periods.

IPART will take a consultative approach to this task and seek to balance the level of assurance required at performance audits against the regulatory burden that will be placed on the entities delivering on the Roadmap's objectives. In developing its audit program and priorities IPART will consider a range of factors including the timing and scope of other reviews being undertaken of the Roadmap entities and the risk profile of elements of the Roadmap. A risk-based approach to performance audits will allow IPART to efficiently prioritise efforts to areas of higher consequence, minimise cost to the entities and ensure that the Roadmap industry and the broader community have the benefit of a proportionate, informative audit program.

Table 7.1 Functions of the Regulator (IPART) under the EII Act

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity
Plan for NSW renewable energy sector	Section 8(4)	The Regulator may recommend the NSW renewable energy sector board's plan to the Minister only if satisfied that the plan: <ul style="list-style-type: none"> a) protects the financial interests of NSW electricity customers, and b) is consistent with Australia's international trade obligations. 	N	IPART decided that the plan satisfied the criteria of section 8(4) of the EII Act, and recommended that the then Minister approve the plan on 7 July 2022. IPART may need to review revisions to the NSW Renewable Energy Sector Board Plan in the future.
Consultee for priority transmission infrastructure projects	Section 34(1)	The Minister must consult the Regulator before directing a network operator to carry out a priority transmission infrastructure project,	Y	IPART, as a regulator under the EII Act, was consulted in advance of the former Minister's decision to direct Transgrid to carry out the Waratah Super Battery project as a PTIP. IPART was consulted by EnergyCo (pursuant to a delegation of consultation functions by the then Minister) on 15 September 2022. IPART provided a response to EnergyCo on 28 September 2022.
Performance audits	Section 67(1)	The Regulator is to audit the performance of the following— <ul style="list-style-type: none"> a) the consumer trustee b) the financial trustee c) the scheme financial vehicle d) the infrastructure planner. The Minister may require the Regulator to conduct an audit under this section.	Y	IPART did not undertake performance audits in FY 2022-23 as: <ul style="list-style-type: none"> • entities which had been appointed were still in the early stages of their programs • regulations setting out the specific details of the audit function were in development and are expected to provide further guidance as to how audits are to be undertaken In 2024, IPART expects to develop a performance audit framework and prepare a forward work program to audit entities under the EII Act.
Annual reports	Section 70	The Regulator must prepare an annual report on the exercise of functions under the Act by the consumer trustee, the financial trustee, the infrastructure planner and the Regulator itself. The Regulator must provide the annual report to the Minister no later than 4 months after the end of the financial year to which the report relates and must publish the annual report on its website as soon as reasonably practicable after providing it to the Minister.	Y	IPART submitted an annual report to the then Minister to fulfill its annual reporting function for 2022-23 in October 2022. The report was published on IPART's website on 31 October 2022. The report did not report on the exercise of functions by the Financial Trustee as the entity was yet to be appointed at the end of the reporting period.

Note:

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

Chapter 8 »

Future regulator - EPA



The Office of Energy and Climate Change has advised IPART that the Minister intends to appoint the Environment Protection Authority (EPA) as a regulator under the EII Act to carry out functions specified in Part 12 of the EII Regulation.⁵⁵ Those functions will help ensure firming infrastructure operators in NSW meet their greenhouse gas emissions intensity obligations.

Firming infrastructure delivers electricity to the market when there is not enough energy to meet demand. Operators of firming infrastructure enter into Long Term Energy Supply Agreements (LTESAs) with the Scheme Financial Vehicle and must comply with the greenhouse gas emissions requirements under Part 12 of the EII Regulation.

As part of its planned role, the EPA expects that it will need to:

- determine the greenhouse gas intensity of NSW electricity generators and of each firming infrastructure facility each year
- assess whether the firming infrastructure operators have satisfied their offset obligations and whether they need to surrender carbon credits to do so.

For this report, IPART invited the EPA to provide any information it considers would be useful to help the Minister and the public understand the EPA's intended role, including any information about its planning for functions to be exercised in FY 2023-24.

The EPA has told IPART that it has begun preparing for its planned roles and responsibilities under Part 12 of the EII Regulation as set out in [Table 8.1](#) below. Although many of the activities that the EPA has reported appear to have been carried out very recently (after the end of FY 2022-23), we have included the information in this year's report.

⁵⁵ Section 64(1) of the EII Act provides that the Minister is to appoint one of the following as regulator – the AER; the Tribunal; or a person prescribed by the regulations. The EII Regulation prescribes the EPA as a person that may be appointed as regulator for exercising a function in relation to of Part 12 of the EII Regulation (clause 41A, EII Regulation).

Table 8.1 Intended functions of the Regulator (EPA)

Function area	Ref ^a	Function	Mandatory (Y/N)	Activity, as reported to IPART by the EPA ^b
Offset requirements	Clause 63(2)	The Regulator must procure and surrender the offset units required to be procured and surrendered by an LTES operator who made a payment under clause 62(3) instead of procuring and surrendering the offset units.	Y	The EPA has not needed to undertake this function to date. The EPA is working closely with the Office of Environment and Climate Change and the Scheme Financial Vehicle to ensure a straightforward and effective process is established, to enable the transfer of funds between the relevant parties to allow offsets to be procured and surrendered when required.
Calculations	Clause 64	Prescribes the requirements for the Regulator to make a calculation under Part 12, Division 3 of the regulations.	Y	The EPA has not needed to undertake this function to date. The EPA has developed a new webpage which outlines its role and functions under Part 12 of the EII Regulation. The webpage includes details about the EPA's functions, including the requirement to undertake calculations under Part 12 Division 3 of the EII Regulation. The EPA's webpage can be found here: https://www.epa.nsw.gov.au/your-environment/climate-change/firming-infrastructure
	Clause 65	Prescribes the requirements for the Regulator to calculate emissions intensity and offset units.	Y	The EPA has not needed to undertake this function to date. The EPA has prepared a draft guide that outlines the EPA's and firming infrastructure operator's roles and responsibilities under Part 12 of the EII Regulation. The draft guide sets out how the EPA will calculate emission intensities (for the NSW Grid and firming infrastructure facilities) and offset requirements – to ensure it meets its future responsibilities under clause 65. The EPA publicly consulted on the draft guide for 3 weeks until 15 September 2023. The draft guide is available on the EPA's website and it will be finalised in October 2023.
Calculation method	Clause 66	The Regulator must develop a methodology for calculating emissions intensity and offset units. The regulations prescribe the requirements of that methodology.	Y	As mentioned above, the EPA has prepared a draft guide that outlines both the EPA and firming infrastructure operator's roles and responsibilities under Part 12 of the EII Regulation. It includes the methodology for calculating emissions intensity and offset units. The draft guide is available on the EPA's website and it will be finalised in October 2023.

Notes:

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

b. The information in this column is drawn from the annual reports provided by the Roadmap entities to IPART in accordance with section 70(1) of the EII Act. In some cases, we have updated this column to incorporate additional information and points of clarification provided by each entity in subsequent correspondence.

Appendices

Appendix A >>

Glossary



A.1 Glossary

Table A.1 Glossary of terms

Term	Meaning
Access Fees	Fees paid by Network Operators for Access Rights
Access Rights	Rights granted by the Consumer Trustee to access and use specified network infrastructure within a REZ. (see Section 2.4.4)
AEMO	Australian Energy Market Operator is a public company limited by guarantee with a membership of state and federal governments (60%) and energy industry members (40%). The AEMO's role is to manage the electricity and gas systems and markets across Australia.
AER	Australian Energy Regulator
Consumer Trustee	An entity created under the Roadmap with various planning, advisory and procurement functions that acts independently and in the long-term financial interest of NSW electricity customers (see Chapter 3)
CWO REZ	Central West Orana – for example; CWO REZ Access Rights
Distribution Network Service Providers	Utility companies that provide electricity distribution network services
EII Act	<i>Electricity Infrastructure Investment Act 2020</i>
EII Reg	<i>Electricity Infrastructure Investment Regulation 2021</i>
Electricity Infrastructure Fund	An account kept with an authorised deposit-taking institution for the purposes of the Scheme Financial Vehicle (see section 4.1.2)
EnergyCo	The Energy Corporation of NSW ^r
Financial Trustee	An entity created under the Roadmap that administers the Scheme Financial Vehicle (See Chapter 4)
Fund	Electricity Infrastructure Fund
FY 2021-22	Financial year from 1 July 2021 to 30 June 2022
FY 2022-23	Financial year from 1 July 2022 to 30 June 2023
Infrastructure Planner	EnergyCo, appointed by the former Minister to plan the location of REZs and coordinate where generation, long duration storage and firming capacity will be built, as well as coordinate, contract and oversee network operators' delivery of transmission network infrastructure required to connect the generation built in REZs to the electricity grid
IPART	Independent Pricing and Regulatory Tribunal
LTESA	Long Term Energy Service Agreement
Minister	The Minister for Energy
Network Operator	A Distribution Network Service Provider that provides network services within a REZ
Network Operator Deed	A deed that allows a Network Operator to operate within a REZ
PTIP	Priority Transmission Infrastructure Project
Regulator	IPART and Australian Energy Regulator (AER) are appointed by the former Minister as Regulators under the EII Act
RESB	Renewable Energy Sector Board
REZ	Renewable Energy Zone
Roadmap	Electricity Infrastructure Roadmap - the NSW Government's plan to transform the NSW electricity system (see Chapter 1). For the purposes of this report a reference to the Roadmap is a reference to the elements of the Roadmap that fall under the EII Act only.
Safeguard	Electricity Infrastructure Investment Safeguard
Scheme Financial Vehicle	A corporation created and administered by the Financial Trustee that facilitates funding and payments to private sector participants in the Roadmap via the Electricity Infrastructure Fund (see section 4.1.1)
SIPS	System Integrity Protection Scheme

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- ¹ Section 70(3) of the EII Act.
- ² NSW Climate and Energy Action, [What is the Electricity Infrastructure Roadmap?](#), website accessed 13 October 2023.
- ³ NSW Climate and Energy Action, [Entities delivering the Roadmap](#), website accessed 12 October 2023.
- ⁴ NSW Climate and Energy Action, [Entities delivering the Roadmap](#), website accessed 25 October 2023.
- ⁵ Sections 61(2), 62 and 70 of the EII Act and EII Regulation Section 42B.
- ⁶ Section 53 of the EII Act.
- ⁷ Scheme Financial Vehicle Pty Ltd, *Scheme Financial Vehicle Annual Report*, 30 June 2023, p 3.
- ⁸ Sections 38(2)-(4) and (6), and section 40, of the EII Act.
- ⁹ *NSW Electricity Infrastructure Roadmap: Building an Energy Superpower – Overview*, NSW Department of Planning, Industry and Environment, November 2020, p. 26.
- ¹⁰ *Long-Term Energy Service Agreement Design, Consultation paper*, NSW DPIE, August 2021.
- ¹¹ *Network Authorisation Guidelines (Draft)*, EnergyCo and AEMO Services Ltd, May 2022.
- ¹² *NSW Renewable Energy Sector Board's Plan*, OECC, September 2022.
- ¹³ Section 8 of the EII Act.
- ¹⁴ *Draft 2023 Infrastructure Investment Objectives Report*, AEMO Services, May 2023.
- ¹⁵ Sections 61(2), 62 and 70 of the EII Act and EII Regulation Section 42B.
- ¹⁶ Section 53 of the EII Act.
- ¹⁷ Scheme Financial Vehicle Pty Ltd, *Scheme Financial Vehicle Annual Report*, 30 June 2023, p 3.
- ¹⁸ Email, AER to IPART, 20 October 2023.
- ¹⁹ Section 56 of the EII Act.
- ²⁰ Section 56(5) of the EII Act.
- ²¹ NSW Department of Planning, and Environment, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy paper*, September 2021, p 4.
- ²² NSW Department of Planning, and Environment, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy paper*, September 2021, p 4.
- ²³ NSW Department of Planning, and Environment, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy paper*, September 2021, pp 3-4.
- ²⁴ EnergyCo, *Our purpose*, website accessed 12 October 2023.
- ²⁵ Under section 23(5) of the EII Act, the Minister is to appoint EnergyCo as the Infrastructure Planner for each of the 5 REZs.
- ²⁶ *Renewable Energy Zone (South West) Order 2022*, commenced on 4 November 2022.
- ²⁷ *Renewable Energy Zone (Hunter-Central Coast) Order 2022*, commenced on 9 December 2022.
- ²⁸ *Renewable Energy Zone (Illawarra) Order 2023*, commenced on 27 February 2023.
- ²⁹ Government Gazette, *Number 473, 14 October 2022*.
- ³⁰ EnergyCo, *Hunter Transmission Project, Priority Transmission Infrastructure Project*, accessed 24 October 2023.
- ³¹ Section 63(4)(c) of the EII Act.
- ³² Clause 45 of the EII Regulation.
- ³³ Clause 43(1)(b) of the EII Regulation.
- ³⁴ Section 63(4)(a) of the EII Act.
- ³⁵ EnergyCo, *Network Infrastructure Strategy for NSW*, website accessed 12 September 2023.
- ³⁶ EnergyCo, *Network Infrastructure Strategy for NSW*, website accessed 5 October 2023.
- ³⁷ Government Gazette, *Number 591, 23 December 2023*.
- ³⁸ Section 24(5)(a) of the EII Act.
- ³⁹ AEMO Services, *LTESA and Access Right Tender Rules*, NSW Consumer Trustee, March 2023.
- ⁴⁰ EnergyCo, *NSW Network Infrastructure Strategy*, published in May 2023.
- ⁴¹ EnergyCo, *Waratah Super Battery*, website accessed 13 September 2023.
- ⁴² EnergyCo, *Construction starts on Waratah Super Battery*, website accessed 13 September 2023.
- ⁴³ Section 63(4)(a) of the EII Act.
- ⁴⁴ EnergyCo, Report on EnergyCo's functions as the Infrastructure Planner FY 2022-23, 3 October 2023.
- ⁴⁵ EnergyCo, Submission from EnergyCo to IPART annual report on functions under the EII Act for 2022-23 will be published on IPART's website after we have submitted the annual report to the Minister.
- ⁴⁶ Government Gazette, *Number 473, 14 October 2022*.
- ⁴⁷ *Agreement - Conferral of functions on the Australian Energy Regulator under the Electricity Infrastructure Investment Act 2020 (NSW)*.
- ⁴⁸ Sections 38(5) and 64(4)(a) of the EII Act and clause 42 of the EII Regulation.
- ⁴⁹ Sections 38(2)-(4) and (6), and section 40, of the EII Act.
- ⁵⁰ Section 56(1) of the EII Act.
- ⁵¹ Sections 51(3) and (6) of the EII Act.
- ⁵² Section 47(6) of the EII Act.
- ⁵³ Section 34(1), 36(3) of the EII Act and clause 45(4) of the EII Regulation.
- ⁵⁴ Section 38 of the EII Act.
- ⁵⁵ *Revenue proposal for Waratah Super Battery project – network augmentation and SIPS control system (non-contestable)*, 30 June 2023.
- ⁵⁶ Section 38(5) of the EII Act and clauses 47 and 49 of the EII Regulation.
- ⁵⁷ *Revenue determination guideline for NSW contestable network projects*, 19 August 2022; *Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects*, 27 April 2023.
- ⁵⁸ *Revenue Determination for Waratah Super Battery project – SIPS battery service (contestable)*, 14 December 2022

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- ⁵⁹ [Annual adjustment for Waratah Super Battery project – SIPS battery service \(contestable\)](#), 16 June 2023.
- ⁶⁰ [NSW contribution determination guideline](#), 23 September 2022; [NSW contribution determination template](#), 24 November 2022.
- ⁶¹ Section 51(3) of the EII Act.
- ⁶² [AER letter to Consumer Trustee – Approval of risk management framework](#), 8 July 2022.
- ⁶³ Section 51(1) of the EII Act.
- ⁶⁴ Section 47(6) of the EII Act.
- ⁶⁵ Tender rules and stakeholder engagement materials can be found on the [AER website](#).
- ⁶⁶ [Instrument of appointment](#), 17 December 2021.
- ⁶⁷ Section 7(1) of the EII Act.
- ⁶⁸ Section 7(2) of the EII Act.
- ⁶⁹ The Board must prepare the plan under section 7(4)(a) of the EII Act. Section 8(1) of the EII Act sets out the required content of the plan.
- ⁷⁰ Schedule 1, cl. 7 of the EII Regulation.
- ⁷¹ [Response to the Renewable Energy Sector Board's advice to the NSW Government to build the capacity and capability of the NSW renewable energy sector](#)
- ⁷² Acil Allen (2022), [Consumer costs and economic benefits for Renewable Energy Sector Board's Plan](#), Report to Department of Planning and Environment, Final Report.
- ⁷³ Section 67(1) of the EII Act.
- ⁷⁴ Section 67(4) of the EII Act.

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