

Explanatory Statement

Draft amendments to Transmission Efficiency
Test and revenue determination guideline for
non-contestable network infrastructure projects

September 2025

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1 Introduction

This explanatory statement accompanies the draft amendments to the Australian Energy Regulator's (AER) *Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects* (Non-contestable Guideline). It describes our position on matters we have identified as part of our 2025 review of the Non-contestable Guideline.

We initiated the review of the Non-contestable Guideline with the aim of incorporating into it amendments made in 2024 to the *Electricity Infrastructure Investment Regulation 2021* (NSW) (EII Regulation) to deal with network infrastructure projects that combine both contestable and non-contestable components (we refer to these as hybrid projects).¹ We consider the changes to the Non-contestable Guideline are necessary given the framework designed to regulate hybrid projects is new and it is necessary for the AER to provide stakeholders with clear direction on how it intends to apply the hybrid arrangements. Further, under the amendments to the EII Regulation, the Non-contestable Guideline must set out how the AER will apply its guidelines for contestable and non-contestable revenue determinations to contestable components.² Our review also includes some minor and administrative changes to be made to the Non-contestable Guideline.

1.1 Authority to amend the Guideline

We can amend our Non-contestable Guideline from time to time. We have published the proposed amendments to our Non-contestable Guideline on our website for a period of 20 business days and we will consider any submissions received within that period before finalising these amendments.³

Clause 47A of the EII Regulation deals with the Regulator's guidelines for non-contestable revenue determinations. It sets out what matters in Chapter 6A of the NER must be included in the Non-contestable Guideline.⁴ Under clause 47A(3) we are required to:

- ensure our guidelines set out how a non-contestable revenue determination will be made by us, including how we will make a determination under clause 47E(4) for a contestable augmentation, and
- as far as is reasonably practicable, make our guidelines consistent with the NER, Chapter 6A as that Chapter applies to the AER making a transmission determination.

We have followed these requirements in undertaking our review.

¹ See [Electricity Infrastructure Investment Amendment \(Revenue Determinations\) Regulation 2024 \(NSW\)](#).

² EII Regulation, cl. 47A(6).

³ EII Regulation, cl. 47C.

⁴ These matters are set out in EII Regulation, clause 47A(4) and include the building block approach, RAB, return on capital, depreciation, estimated cost of corporate income tax, forecast capex/opex, reopening for capex, network and cost pass throughs. Matters to be excluded from the Guideline are set out in EII Regulation, clause 47A(5).

1.2 Scope of the review

The review of the Non-contestable Guideline is targeted on two aspects:

- how the AER intends to approach and make a hybrid revenue determinations, and
- other minor and administrative matters.

1.2.1 Hybrid revenue determinations

The intent of this review is to incorporate into the Non-contestable Guideline amendments made to the EII Regulation in 2024 which allow for the regulation of hybrid network infrastructure projects (that is, projects that combine both contestable and non-contestable components).

We are proposing to amend the Non-contestable Guideline by including a new chapter 7 that outlines how we intend to approach and make hybrid revenue determinations. In particular, these changes are intended to provide Network Operators and other stakeholders with guidance on:

- The framework the EII Regulation sets out for dealing with hybrid revenue determinations
- Our approach for dealing with contestable components of a hybrid revenue determination, including how we intend to apply the AER's *Revenue determination guideline for NSW contestable network projects* (Contestable Guideline)⁵ to the:
 - Evaluation of a competitive assessment process
 - Infrastructure Planner's procurement strategy for a competitive assessment process
 - Monitoring and assessment of a competitive assessment process
 - Assessment of contestable components that are derived from a genuine and appropriate competitive process.
- Our approach to how we intend to apply the Non-contestable Guideline to assess contestable components that are not derived from a genuine and appropriate competitive process
- Our approach for dealing with non-contestable components of a hybrid revenue determination
- Application of incentive schemes and adjustments
- The making of a hybrid revenue determination
- Modifications to the standard non-contestable process steps to accommodate contestable components.

We consider the changes we have made are necessary to facilitate the hybrid revenue determination process and provide stakeholders with clear direction on how we intend to approach and make hybrid revenue determinations.

⁵ The AER's *Revenue determination guideline for NSW contestable projects* can be found here - <https://www.aer.gov.au/industry/registers/resources/guidelines/revenue-determination-guideline-nsw-contestable-projects>.

1.2.2 Other minor and administrative matters

We are also proposing to amend the Non-contestable Guideline by making some minor and administrative amendments. These amendments are intended to incorporate into the Non-contestable Guideline up to date references to the regulatory framework, improve clarity and correct some typographical errors.

1.3 Getting involved

We are now asking stakeholders to provide submissions on the draft amendments to our Non-contestable Guideline. We will consider those submissions before we finalise any changes. We aim to develop and finalise our amendments to the Non-contestable Guideline by the end of 2025.

We encourage engagement from all stakeholders. The decisions we make and the actions we take affect a wide range of individuals, businesses, and organisations. Hearing from those affected by our work helps us make better decisions, provides greater transparency and predictability, and builds trust and confidence in the regulatory regime.

Table 1 sets out the key milestones planned for the completion of this review.

Table 1 Key milestones for review of the Guideline

Indicative dates	Key milestone
2 September 2025	Publish draft amendments to the Non-contestable Guideline on AER website, with an accompanying explanatory statement
2 - 30 September 2025	Consultation period
30 September 2025	Submissions close
End of 2025	Publish final amendments to the Non-contestable Guideline on AER website, with an accompanying explanatory statement

1.4 Invitation for submissions

We invite stakeholders to make submissions on the draft amendments to the Non-contestable Guideline by 30 September 2025.

Submissions should be emailed to: REZ@aer.gov.au with an email title of 'Non-contestable guideline 2025 review – submission'.

Alternatively, submissions may be sent to:

Mr Scott Haig
Acting General Manager,
Renewable Energy Zones Branch, Networks Regulation
Australian Energy Regulator
GPO Box 3131
CANBERRA ACT 2601

We prefer all submissions be publicly available to facilitate an informed and transparent consultative process. We will treat submissions as public documents unless otherwise requested. We will publish all non-confidential submissions on the [AER's website](#). For further information on the AER's use and disclosure of information provided to it, see the [ACCC/AER Information Policy](#).

We request parties wishing to submit confidential information to:

- clearly identify the information that is the subject of the confidentiality claim
- provide a non-confidential version of the submission in a form suitable for publication on the AER's website.

2 Hybrid revenue determinations

One of the key functions conferred on the AER under the *NSW Electricity Infrastructure Investment Act 2020* (NSW) (EII Act) is to make revenue determinations for Network Operators authorised by the Consumer Trustee or authorised (or directed) by the NSW Energy Minister to carry out network infrastructure projects.⁶ In undertaking this function, we scrutinise the costs of these projects to assess if they reflect prudent, efficient and reasonable costs. Our non-contestable revenue determination process is based on Chapter 6A of the NER.⁷

2.1 Reasons for amending the Non-contestable Guideline

The EII Regulation was amended in late 2024 to include the hybrid regulations. The amendments expanded the definition of a '*non-contestable revenue determination*' in Schedule 4 of the EII Regulation to include projects where there is at least:

- one contestable component derived as a result of a competitive assessment process;⁸ and
- one component that is not a contestable component.

We refer to this as a hybrid revenue determination. Definitions for the terms '*component*'⁹ and '*contestable component*'¹⁰ were also included in Schedule 4 of the EII Regulation at the same time.

The amendments to the EII Regulation also included that:

- the AER's Non-contestable Guideline must provide that the Efficiency Benefit Sharing Scheme (EBSS) and Capital Expenditure Sharing Scheme (CESS) do not apply to a contestable component of a hybrid revenue determination;¹¹ and
- any adjustments for a contestable component must be carried out in accordance with the contractual arrangements the Network Operator entered into as required under the relevant authorisation.¹²

⁶ EII Act, s.38.

⁷ EII Regulation, cl. 47A(1)(3)(b).

⁸ '*Competitive assessment process*' is defined in Schedule 4 of the EII Regulation as "*means a process carried out by the infrastructure planner under clause 45 to competitively assess persons who apply to carry out all or part of a REZ network infrastructure project or a PTIP.*"

⁹ '*Component*' is defined in Schedule 4 of the EII Regulation as a '*component, of a revenue determination, means a component referred to in the Act, section 38(2) and includes part of a component.*'

¹⁰ '*Contestable component*' is defined in Schedule 4 of the EII Regulation as "*contestable component of a non-contestable revenue determination, means a component where the costs of the component are derived as a result of a competitive assessment process.*"

¹¹ EII Regulation, cl. 47B(1A).

¹² EII Regulation, cl. 51(3)(b).

The NSW Government developed the hybrid framework to provide greater flexibility in how NSW Roadmap infrastructure projects could be delivered. It was considered that the hybrid approach could improve certainty over project delivery and timelines and minimise delays by allowing the Infrastructure Planner to manage and contestably procure certain aspects of a non-contestable network infrastructure project such as development and construction of a project. The application of contestability to some parts of a non-contestable project, also reflects the policy intent that the competitive market can be relied upon to produce prudent, efficient and reasonable costs.

Under the amendments to the EII Regulation the Non-contestable Guideline must set out how the AER will:

- apply the AER's Contestable Guideline to a contestable component (where the AER is satisfied the competitive assessment process was '*genuine and appropriate*');¹³ and
- apply the Non-contestable Guideline to a contestable component of a revenue determination (where the AER is not satisfied the competitive assessment process was '*genuine and appropriate*').¹⁴

We have updated the Non-contestable Guideline to include references to the new hybrid framework. We have also included a new chapter 7 that outlines how we intend to approach and make hybrid revenue determinations.

2.2 Contestable components

2.2.1 Application of the AER's existing Contestable and Non-contestable Guidelines

We are proposing to amend the Non-contestable Guideline to comply with the requirements in clause 47A(6)(a) & (b) of the EII Regulation to apply the AER's Contestable and Non-contestable Guidelines to contestable components. This is included in section 7.2 (Contestable components) of the new chapter 7 of the Non-contestable Guideline.

Broadly, for contestable components, we are proposing to maintain our current approach under the contestable EII framework for dealing with competitive assessment processes. Table 2 sets out how we propose to apply the existing guidelines (Contestable Guideline and Non-contestable Guideline) to contestable components.

Table 2: Application of existing guidelines to contestable components

Contestable component	Reference in draft Non-contestable Guideline	Application of an existing guideline
Evaluation of a competitive assessment process	Section 7.2.1	We propose applying section 3 of the Contestable Guideline which sets out the evaluation criteria which the AER applies when assessing whether a

¹³ EII Regulation, cl. 47A(6)(a).

¹⁴ EII Regulation, cl. 47A(6)(b).

Contestable component	Reference in draft Non-contestable Guideline	Application of an existing guideline
		competitive assessment process (or procurement strategy) is genuine and appropriate:
Infrastructure Planner's procurement strategy for a competitive assessment process	Section 7.2.2	When reviewing any procurement strategy for a contestable component we propose applying section 4 of the Contestable Guideline which sets out our approach to the review, the required contents of a procurement strategy, and how we expect to deal with any subsequent amendments to it.
Monitoring of a competitive assessment process	Section 7.2.3	We propose applying section 5.1 of the Contestable Guideline when monitoring a competitive assessment process undertaken for a contestable component.
Assessment of a competitive assessment process	Section 7.2.3	<p>We propose applying section 5.2 of the Contestable Guideline which sets out the information to be contained in the report the Infrastructure Planner is to provide to the AER at the conclusion of a competitive assessment process.</p> <p>We propose applying section 5.3 of the Contestable Guideline when making our assessment of the competitive assessment process which sets out the high-level factors we will consider in determining whether a competitive assessment process was genuine and appropriate.</p> <p>We propose applying numbered paragraph 1 in section 6.1 of the Contestable Guideline to ensure the Network Operator includes in its revenue proposal a statement of whether the contestable components in the Network Operator's proposal are consistent with the contractual arrangement entered into as a result of the competitive assessment process.</p>
Assessment of costs associated with contestable components	Section 7.2.4	<p>We propose applying section 7.4 of the Contestable Guideline when assessing the costs arising out of a genuine and appropriate competitive assessment process as prudent, efficient and reasonable.</p> <p>In addition, in relation to development and construction capital costs, we propose applying section 7.3 of the Contestable Guideline. This section indicates that we will consider</p>

Contestable component	Reference in draft Non-contestable Guideline	Application of an existing guideline
		<p>development and construction capital costs to have met the requirements of the Transmission Efficiency Test (TET) if the competitive assessment process was found to be genuine and appropriate.</p> <p>However, if a contestable component was not found to be genuine and appropriate we propose applying section 5 and Appendix A (EII Chapter 6A)¹⁵ of the Non-contestable Guideline to assess whether the costs are prudent, efficient and reasonable.</p>
Adjustments	Section 7.2.6	When considering adjustments for contestable components we propose applying section 7.5 of our Contestable Guideline which sets out our approach to making adjustments to revenues associated with adjustment mechanisms resulting from a competitive assessment process.

2.2.2 Application of incentive schemes

Consistent with the requirements in clause 47B(1A) of the EII Regulation, we will not apply the efficiency benefit sharing scheme and the capital expenditure sharing scheme to any contestable components of a hybrid revenue determination.

2.3 Non-contestable components

We are proposing when dealing with any non-contestable components of a hybrid revenue determination to apply the process steps and assessment approach set out in chapters 2-5 and Appendix A (EII Chapter 6A) of our Non-contestable Guideline.

2.4 Making a hybrid revenue determination

We are proposing, when making a hybrid revenue determination, to take the costs of any assets or services procured through a genuine and appropriate contestable process (as well any assessed capital and operating expenditures associated with non-contestable components) and include them in our Post Tax Revenue Model (PTRM). We will then apply the PTRM to determine the Network Operator's regulated revenue and schedule of payments consistent with the requirements set out in the Non-contestable Guideline and EII Chapter 6A.

¹⁵ EII Chapter 6A is a modified version of Chapter 6A of the NER. Our Non-contestable Guideline must under clause 47A(3)(b) of the EII Regulation as far as is reasonably practicable, be consistent with Chapter 6A of the NER.

Adjustment mechanisms included in the contractual arrangements entered into as required under the relevant authorisation as part of a genuine and appropriate competitive assessment process will also be included in our hybrid revenue determination. We note that when applying these adjustment mechanisms they will be limited to adjusting relevant contestable components. Adjustment mechanisms for non-contestable components may also be included in our hybrid revenue determination.

2.5 Hybrid revenue determination process

A hybrid revenue determination is a non-contestable revenue determination and, as such, we are proposing to make only minimal changes to the standard non-contestable process set out in the Non-contestable Guideline. These changes are designed to integrate the processes we currently apply under the contestable framework into our Non-contestable Guideline to allow us to make a hybrid revenue determination.

2.5.1 Additional pre-lodgement steps

The key additional process steps we are proposing for hybrid revenue determinations are set out in the draft Non-contestable Guideline in table 2 of the new Chapter 7. The only additional steps we are proposing to include for hybrid revenue determinations (relative to the process steps in our existing Non-contestable Guideline) are those pre-lodgement steps related to the inclusion of contestable components in a hybrid revenue determination. These additional pre-lodgement steps are:

1. The Infrastructure Planner consults with the AER on its intended competitive assessment process for contestable components and provides its procurement strategy to the AER.
2. The AER notifies the Infrastructure Planner whether it is satisfied that the process outlined in the procurement strategy for a contestable component is likely to result in a genuine and appropriate competitive assessment process.
3. The Infrastructure Planner undertakes the competitive assessment process for a contestable component in accordance with the procurement strategy and consults with the AER (and provides requested information) during the process.
4. The Infrastructure Planner evaluates tenderers and selects the successful proponent for a contestable component. The Infrastructure Planner provides the AER with a report on the conduct of the competitive processes.
5. The AER reviews the report on the competitive assessment process for a contestable component and decides whether it is satisfied the process was genuine and appropriate.

The above steps align with the process steps set out in the Contestable Guideline and we consider they are required for contestable components of a hybrid revenue determination.

In relation to the 'genuine and appropriate' decision on a competitive assessment process referred to in step 5 above, if we are satisfied the process is '*genuine and appropriate*' then costs associated with that contestable component of a hybrid project are regarded as prudent, efficient and reasonable and must be adopted by us in our hybrid revenue determination.¹⁶ However, if we are not satisfied the contestable costs result from a genuine

¹⁶ EII Regulation, cl. 46(1)(a)(i)).

and appropriate process then these costs will be subject to a non-contestable assessment to determine that they are prudent, efficient and reasonable.

The Contestable Guideline indicates the AER, where possible, will conduct the 'genuine and appropriate' review prior to the Network Operator submitting a revenue proposal.¹⁷ For hybrid revenue determinations we are proposing that the AER's 'genuine and appropriate' decision for contestable components occur at the pre-lodgement stage of a hybrid revenue determination process, that is, prior to the submission of the Network Operator's revenue proposal.

We consider this timing is preferable for the Network Operator, Infrastructure Planner and other stakeholders because it will result in the earliest possible indication of whether the costs associated with the contestable component can be considered to be prudent, efficient and reasonable as a result of a finding that the competitive process was genuine and appropriate. Or, alternatively, in circumstances where a competitive assessment process for a contestable component is not found to be genuine and appropriate, that the costs need to be subject to a non-contestable assessment. This will in turn inform what information the Network Operator needs to include in its revenue proposal. In that regard, it eliminates any delays that may arise in the provision of information necessary for the AER to make an assessment of all components of a hybrid project.

We also observe that under the national framework there is a focus on stakeholder engagement as part of the revenue determination process. This has also been embedded into the EII's non-contestable framework through the Non-contestable Guideline and EII Chapter 6A.¹⁸ By making our genuine and appropriate decision during the pre-lodgement stage it clarifies at an early stage what components are contestable and what are non-contestable. This maximises the ability for us to utilise all non-contestable engagement and consultation process steps (such as publication and consultation on the Network Operator's revenue proposal and the AER's preliminary position paper) which form part of the non-contestable revenue determination process.

We consider the above approach to sequencing of the genuine and appropriate decision provides greater certainty for all parties involved. It also maintains an efficient revenue determination process that facilitates consultation and engagement.

2.5.2 Stakeholder engagement and confidentiality

The AER seeks to ensure regulatory processes and decisions are undertaken in an open and transparent manner that facilitates stakeholder engagement. This framework underpins our approach to making revenue determinations under the NER and is mirrored in the non-contestable revenue determination process as set out under the EII Act, EII Regulation and our Non-contestable Guideline. We are proposing to apply our existing non-contestable

¹⁷ AER, [Revenue determination guideline for NSW contestable projects](#), August 2022, p.8.

¹⁸ EII Regulation, clause 47A(3)(b) which requires that the Non-contestable Guideline be consistent as far as is reasonably practicable with the *National Electricity Rules* (NER), Chapter 6A as that Chapter applies to the AER making a transmission determination.

approach to stakeholder engagement and assessment of confidentiality claims throughout the hybrid revenue determination process.

Generally, we expect all parties will seek to provide stakeholders with as much information as possible on both the contestable and non-contestable components of a hybrid project. It therefore follows that we expect narrowly confined confidentiality claims over the elements of a hybrid revenue proposal. This should be taken into account when developing and implementing hybrid projects. However, due to the nature of the competitive assessment process, contestable components will be subject to limited stakeholder engagement and consultation. In contrast, for non-contestable components stakeholder engagement and consultation will be an essential element of our approach.

When dealing with confidentiality claims within the context of hybrid revenue proposals, we will apply our EII Confidentiality Guideline and undertake the same processes and procedures including early pre-lodgement discussions with Network Operators. Our approach to stakeholder engagement and confidentiality for hybrid revenue determinations is set out in the draft Non-contestable Guideline in section 7.5.2. In summary:

- There is likely to be limited visibility of the pre-lodgement steps relating to contestable components given the commercial sensitivity of competitive assessment processes while they are underway.
- Consultation and engagement for hybrid revenue determinations will be focused on the non-contestable aspects of the Network Operator's revenue proposal. This is because stakeholders are not able to influence the outcomes of contestable components if they were derived from a 'genuine and appropriate' competitive assessment process. However, we expect information on the nature of and outcomes from a competitive assessment process for a contestable component to be included in a Network Operators' revenue proposal.

2.5.3 Timeframe for making a hybrid revenue determination

Once we receive a compliant revenue proposal for a hybrid revenue determination, we will have 126 business days to make our hybrid revenue determination consistent with the requirements set out in clause 50 of the EII Regulation.

3 Other minor and administrative matters

We are also proposing to amend the Non-contestable Guideline by making some minor and administrative amendments. These amendments are to update references to the regulatory framework, improve clarity and correct typographical errors.¹⁹

The proposed amendments include the following:

- updating out of date references to EII and NER guidelines reflecting recent amendments to the EII Regulation and the introduction of NER Chapter 9A (NSW)²⁰
- revision of relevant text to reflect that the AER's Financeability Guideline has been published
- updating references to clause 47A of the EII Regulation reflecting recent amendments to this clause as it relates to ring-fencing and shared assets.
- updating references and text to reflect changes arising out of recent legislative amendments to the EII Act and EII Regulation
- updating the cost allocation clause (6A.19) in EII Chapter 6A to reflect recent amendments to the EII Regulation and the introduction of NER Chapter 9A (NSW)
- removing inertia shortfall event/fault level shortfall events from the cost pass through events under EII Chapter 6A (noting that these are no longer cost pass through events under the NER Chapter 6A)
- correcting of typographical errors.

We note that we are intending to provide further clarification on how we will deal with shared assets under the EII framework in a future update to the Non-contestable Guideline. Accordingly, we are open to receiving any submissions on shared assets as part of our current guideline review and will take these submissions into account when we undertake this future update.

Further details relating to these proposed amendments are set out in Appendix A.

¹⁹ Under clause 47C(2) of the EII Regulation the requirement to consult on amendments to our guidelines for a period of at least 20 business days does not apply to minor or administrative amendments. However, we have included these proposed amendments as part of this update to the Non-contestable Guideline.

²⁰ Chapter 9A (NSW) contains modifications to the NER as it applies in NSW and will have application to TNSPs who are Network Operators in relation to cost allocation and ring-fencing requirements.

4 Summary of questions

As part of the consultation process, we seek stakeholder feedback on the following questions:

1. What other amendments would you suggest to improve our approach to dealing with hybrid revenue determinations?
2. What are your views on the proposed new pre-lodgement steps to deal with contestable components? What other changes would you suggest to improve the pre-lodgement process for hybrid revenue determinations?
3. What changes would you suggest to improve the level of transparency, consultation and information sharing associated with contestable and non-contestable components of a hybrid revenue determination?
4. What are your views on how the contestable and non-contestable components in a hybrid revenue determination should be presented in a Network Operator's revenue proposal and the AER's revenue determination?

Appendix A

Summary of draft amendments in the Guideline (tracked changes version)²¹

Current guideline requirement	Reference	Amendment	Reason for amendment
Hybrid revenue determination proposed amendments			
Hybrid revenue determinations	Section 7 pp. 37-48	Insertion of new chapter to deal with hybrid revenue determinations	Reflects amendments made to the EII Regulation through the <i>Electricity Infrastructure Investment Amendment (Revenue Determinations) Regulation 2024</i> (NSW) in relation to hybrid revenue determinations
Glossary	Terms, pp. 50-51	Insertion of new terms	Reflects amendments made to the EII Regulation through the <i>Electricity Infrastructure Investment Amendment (Revenue Determinations) Regulation 2024</i> (NSW) in relation to hybrid revenue determinations
Our approach to this Guideline	Section 1.1.1, p.4	Insertion of new text relating to the new hybrid revenue determination requirements.	Reflects amendments made to the EII Regulation through the <i>Electricity Infrastructure Investment Amendment (Revenue Determinations) Regulation 2024</i> (NSW) in relation to hybrid revenue determinations
Who are we?	Section 1.2, p.5	Insertion of new text relating to the new hybrid revenue determination requirements.	Reflects amendments made to the EII Regulation through the <i>Electricity Infrastructure Investment Amendment (Revenue Determinations) Regulation 2024</i> (NSW) in relation to hybrid revenue determinations
Minor and administrative proposed amendments			
Purpose of this guideline	Section 1.1, p.1	Update to footnote text to align with s. 30A of the EII Act which defines the term 'carry out'.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025</i> (NSW).

²¹ Note: Minor consequential, typographical and formatting changes to the Non-contestable Guideline are not separately identified in this table.

Current guideline requirement	Reference	Amendment	Reason for amendment
Purpose of this guideline	Section 1.1, p.1	Update text to align with s. 30A of the EII Act which defines the term 'infrastructure project'.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025</i> (NSW).
Our approach to this Guideline	Section 1.1.1, p.3	Insertion of new reference relating to shared assets	Reflects amendments made to clause 47A(4) of the EII Regulation through the <i>Electricity Infrastructure Investment Amendment (Functions) Regulation 2024</i> (NSW) which now require the AER's Non-contestable Guideline to deal with matters relating to shared assets.
Our approach to this Guideline	Section 1.1.1, p.4	Deletion of references relating to ring-fencing arrangements and shared assets.	Reflects amendments made to clause 47A(5) of the EII Regulation through the <i>Electricity Infrastructure Investment Amendment (Functions) Regulation 2024</i> (NSW) which removed ring-fencing arrangements and shared assets as matters that the AER's Non-contestable Guideline must not deal with.
Our approach to this Guideline	Section 1.1.1, p.4	Deletion of text relating to ring-fencing arrangements and clause 42 of the EII Regulation.	Reflects amendments made through the <i>Electricity Infrastructure Investment Amendment (Functions) Regulation 2024</i> (NSW) which repealed clause 42 of the EII Regulation (which related to ring-fencing arrangements).
Who are we?	Section 1.2, p.5.	Update footnote reference as s. 36(4) of the EII Act has been repealed and s.36A of the EII Act now defines an 'authorisation under Part 5, Division 3.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025</i> (NSW).
EII non-contestable framework	Section 1.4.1, p.6	Amended text to reflect change to s.37(1)(c) of the EII Act.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025</i> (NSW).
Overview of the non-contestable framework	Section 2, table 1, p.10	For the process step relating to the AER advising the Network Operator of material	Clarification that if the revenue determination relates to a REZ network infrastructure project cl. 49(1A) of the EII Regulation

Current guideline requirement	Reference	Amendment	Reason for amendment
		issues under consideration and consulting with the Infrastructure Planner insertion of additional text to the existing footnote.	requires the AER to consult with the consumer trustee.
Overview of the non-contestable framework	Section 2, table 1, p.10	For the process step relating to the AER publishing the final determination and supporting analysis insertion of a new footnote reference.	Clarification that although the AER is required to make the final determination within 126 business days, clause cl. 53(4) of the EII Regulation provides that the AER is required to publish the revenue determination as soon as reasonably practicable but not before the infrastructure planner has notified the regulator that, in the infrastructure planner's opinion, the project financial close of the network infrastructure project has been reached under the recommended contractual arrangements for the project.
Consumer Trustee authorisation or Minister's authorisation/direction	Section 3.1, p.12.	Update text to align with s. 32(2) and (2A) of the EII Act which relates to Ministerial directions.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025</i> (NSW).
Maximum capital cost for a REZ network infrastructure project	Section 3.2, p.13	Update to text and footnote references relating to the maximum capital cost.	Reflects amendments made to the EII Act through the <i>Energy Amendment (Long Duration Storage and Investment) Act 2024</i> (NSW) in relation to the maximum capital cost for a REZ network infrastructure project.
Application of guidelines, incentive schemes and models	Section 3.3, pp.15-17	Update to text relating to the AER's EII specific guidelines and guidance notes.	Update to reflect the guidelines and guidance notes available following the repeal of clause 42 of the EII Regulation and the introduction of NER Chapter 9A (NSW). NER Chapter 9A (NSW) contains modifications to the NER as it applies in NSW and will have application to TNSPs who are Network Operators in relation to cost allocation and ring-fencing requirements.
Application of guidelines, incentive schemes and models	Section 3.3, p.15	Update to text relating to the AER's Financeability Guideline.	Update to reflect the fact the AER has now published a Financeability Guideline.

Current guideline requirement	Reference	Amendment	Reason for amendment
Submitting a cost allocation method	Section 3.4, p.17	Update to text relating to the cost allocation	Update to reflect the guidelines and guidance notes available in relation to cost allocation methods following the introduction of NER Chapter 9A (NSW). NER Chapter 9A (NSW) contains modifications to the NER as it applies in NSW and will have application to TNSPs who are Network Operators in relation to cost allocation requirements.
Information notices under section 38(7) of the EII Act	Section 3.5.2, p.19	Update text and footnote references to align with the insertion of ss. 38(9A) and (9B) of the EII Act which relates to compliance with a notice issued under s.38(7) of the EII Act.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025</i> (NSW).
Treatment of confidential information through revenue determination process	Section 4.1.2, p.22	Amendment to existing footnote references.	Reflects amendments made through the <i>Electricity Infrastructure Investment Amendment (Revenue Determinations) Regulation 2025</i> (NSW) to clause 53 of the EII Regulation which renumbered the relevant sub-clauses.
Transmission Efficiency Test and forecast capital expenditure	Section 5.2.1, p. 25	Deletion of text relating to applying the maximum capital cost in subsequent revenue proposals.	Reflects amendments to the EII Act in relation to the maximum capital cost for a REZ network infrastructure project and the operation of section 40(3) of the EII Act which provides the maximum capital cost provision (s.38(6) of the EII Act) does not apply in relation to the review or remaking of a revenue determination.
Financeability guideline	Section 5.3.2, pp.29-30	Update to text relating to the AER's Financeability Guideline.	Update to reflect the fact the AER has now released a Financeability Guideline.
Timeframe for making our assessment (contestable augmentations)	Section 6.3, p.36	Amendment to existing footnote references.	Reflects amendments made through the <i>Electricity Infrastructure Investment Amendment (Revenue Determinations) Regulation 2025</i> (NSW) to clause 53 of the EII Regulation which renumbered the relevant sub-clauses.

Current guideline requirement	Reference	Amendment	Reason for amendment
Glossary	pp 50-51	Insertion of new term to align with s. 30A of the EII Act which defines the term 'infrastructure project' Change to the term 'priority transmission infrastructure project' to 'priority network infrastructure project'.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025 (NSW)</i> .
Multiple sections	Multiple sections	Update to text and footnote references to change the term 'priority transmission infrastructure project' to 'priority network infrastructure project'.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025 (NSW)</i> .
EII Chapter 6A	Introductory paragraph and Interpretation, p. 1	Update references as s. 36(4) of the EII Act has been repealed and s.36A of the EII Act now defines an 'authorisation under Part 5, Division 3.	Reflects amendments made to the EII Act through the <i>Electricity Infrastructure Investment Amendment (Priority Network Projects) Act 2025 (NSW)</i> .
EII Chapter 6A	Interpretation, pp. 1-2	Update to terms	Clarification reflects recent changes made to the EII Act and EII Regulation.
EII Chapter 6A	cl. 6A.7.3, p.27.	Removal of an inertia shortfall event; and a fault level shortfall event.	Amendment reflects changes made to Chapter 6A of the NER through the AEMC's <i>Improving security frameworks for the energy transition and Efficient management of system strength on the power system rule changes</i> rule changes.
EII Chapter 6A	cl. 6A.13.3, p.39	Update to the text relating to the publication of the revenue determination.	Clarification that, although the AER is required to make the final determination within 126 business days, clause cl. 53(4) of the EII Regulation provides that the AER is required to publish the revenue determination as soon as reasonably practicable but not before the infrastructure planner has notified the regulator that, in the infrastructure planner's opinion, the project financial close of the network infrastructure project has been reached under

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Current guideline requirement	Reference	Amendment	Reason for amendment
			the recommended contractual arrangements for the project.
EII Chapter 6A	cl. 6A.19, pp.44-45	Update to the cost allocation clause and the references to relevant guidelines.	Update to reflect the guidelines and guidance notes available following the repeal of clause 42 of the EII Regulation and the introduction of NER Chapter 9A (NSW). NER Chapter 9A (NSW) contains modifications to the NER as it applies in NSW and will have application to TNSPs who are Network Operators in relation to cost allocation and ring-fencing requirements.

Glossary

Term	Definition
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
Competitive assessment process	Has the meaning given to that term in the EII Regulation
Contestable component	Has the meaning given to that term in the EII Regulation
Contestable costs	Costs determined as a result of a competitive assessment process
EII Act, the Act	<i>Electricity Infrastructure Investment Act 2020 (NSW)</i>
EII Regulation	<i>Electricity Infrastructure Investment Regulation (NSW) 2021</i>
Hybrid revenue determination	A non-contestable revenue determination that includes at least: <ul style="list-style-type: none"> - one contestable component derived as a result of a competitive assessment process; and - one component that is not a contestable component.
Non-contestable Guideline	The AER's Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects
NER	National Electricity Rules
Network Operator	Has the meaning given to that term in the EII Act
Non-contestable costs	Costs determined by an AER assessment of the prudent, efficient and reasonable cost based on the application of our Guideline
Project, network infrastructure project	A REZ Network Infrastructure Project or Priority Network Infrastructure Project as defined in the EII Act
Referenced costs	Costs determined using an appropriate referenced costs process contained in the contractual arrangements for the existing network infrastructure project
Regulator	A person or body appointed as a regulator under section 64 of the EII Act. The AER has been appointed as a Regulator for the purposes of Part 5 of the EII Act
Transmission Efficiency Test	The test to be applied to calculate the prudent, efficient and reasonable capital costs for development and construction of a network infrastructure project under section 38(4) of the EII Act
TNSP	Transmission network service provider