

Contact Officer: Laura Considine

Contact Phone: [REDACTED]

Email: [REDACTED]

29 September 2025

Fiona McAnally
Head of Regulation
Ausgrid

Sent by email to: [REDACTED]

Dear Ms McAnally,

Re: Ausgrid ring fencing waiver application – Hunter Central Coast Renewable Energy Zone

Thank you for the application received on 16 June 2025 for a waiver from obligations under clauses 4.2.1, 4.2.2 and 4.2.3 of the *Ring-fencing Guideline (Electricity Distribution)* ('the guideline'), to enable Ausgrid to provide network services in the Hunter Central Coast Renewable Energy Zone (HCC REZ) alongside its existing regulated network services.

Clause 9A.13 of the NER in NSW was introduced to modify the application of Chapter 6A to Transmission Network Service Providers (TNSPs) who provide EII regulated transmission services. Chapter 6A of the NER includes ring-fencing obligations for TNSPs. As clause 9A.13 does not modify ring-fencing obligations for Distribution Network Service Providers, Ausgrid requires a waiver from certain requirements of the guideline.

Ausgrid's proposal

Ausgrid has applied for a waiver because HCC REZ network services will fall outside of the definition of 'direct control services' under the National Electricity Law (**NEL**). This is because these services will be regulated under the EII Act, instead of the NEL and National Electricity Rules (**NER**).¹ Therefore, despite Ausgrid being a monopoly provider of the HCC REZ network services, the services will be deemed to be 'contestable electricity services' for the purposes of the guideline. Without a waiver, various functional separation obligations under the guideline apply to Ausgrid's delivery of these 'contestable' services.

Ausgrid originally proposed that the waiver commence on the date of the AER's decision regarding our waiver application and remain in effect until the expiry or termination of the contractual arrangements for the HCC REZ network infrastructure project. Ausgrid has since proposed that a 10-year waiver term would be the preferred fixed term for a waiver, considering that a fixed waiver term ensures greater regulatory certainty.

AER assessment and decision

Under clause 5.3.2 of the guideline, when assessing whether or not to grant a waiver the AER must have regard to the National Electricity Objective (NEO), the potential for a distribution network to engage in cross-subsidisation of services and discriminatory behaviour, and whether

¹ *National Electricity (NSW) Law 1997* (NSW), s 2B.

the costs of compliance with the guideline outweigh the benefit to consumers of that compliance, including in relation to impacts on competition.

Our decision is to grant a waiver to Ausgrid from clauses 4.2.1, 4.2.2 and 4.2.3 of the guideline, with a waiver condition (mentioned below), to enable Ausgrid to provide network services in the HCC REZ alongside its existing regulated network services. This waiver will expire on 30 June 2035 unless varied or revoked sooner. This waiver includes a condition of approval that Ausgrid must notify the AER in writing in the event that any legislative change is made (which may be earlier than the change coming into effect) that would affect the required scope of the waiver.

We consider that granting this waiver is consistent with the NEO. The waiver will avoid the duplication of costs and allow Ausgrid to use their experienced staff to support the safe, reliable, and secure delivery of HCC REZ network services. We also recognise that delivery of HCC REZ services will facilitate achievement of targets for reducing Australia's greenhouse gas emissions.

We recognise that cross-subsidisation and discrimination risks are unlikely to arise because, while the HCC REZ network services are deemed to be contestable services under the guideline, there is no competition for these services once the authorised network operator has been selected. Given the absence of contestability for HCC REZ network services, the risk of discriminatory access to Ausgrid's NER regulated distribution network resulting from staff and office sharing does not arise if the waiver is granted.

The cost to Ausgrid of complying with the obligations in guideline include:

- unnecessary costs of separating staff, offices and branding for HCC REZ network services
- hiring new staff that may be inexperienced for delivery of HCC REZ network services
- delays in the delivery of the HCC REZ network infrastructure.

There do not appear to be benefits to electricity consumers of Ausgrid complying with the obligations in the guideline.

We therefore consider that the costs of Ausgrid complying with the guideline would outweigh the benefit to electricity consumers of Ausgrid complying with the guideline.

For these reasons, the AER has decided to grant a waiver to Ausgrid from clauses 4.2.1, 4.2.2 and 4.2.3 of the guideline to enable Ausgrid to provide network services in the HCC REZ alongside its existing regulated network services.

As a condition of approval, Ausgrid must notify the AER in writing in the event that any legislative change is made (which may be earlier than the change coming into effect) that would affect the required scope of the waiver.

Waiver duration

The waiver will be granted until 30 June 2035 unless varied or revoked sooner. This duration will provide certainty for Ausgrid's cost recovery for the next two regulatory control periods.

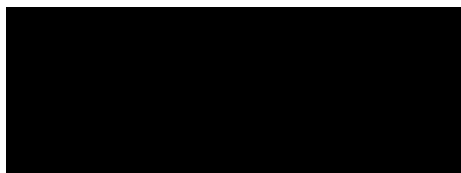
Compliance and review matters

The AER has broad discretion to review and revoke ring-fencing waivers that it grants, at any time on its own initiative if there are grounds to do so. Pursuant to section 5.5 of the guideline, in deciding whether to vary or revoke the waiver, the AER will have regard to the same matters for granting the waiver under clause 5.3.2 of the guideline. A minimum of 40 days' notice will be given to Ausgrid that the AER is considering a variation or revocation of this waiver.

Ausgrid is reminded that, under clause 6.3 of the guideline, Ausgrid must notify the AER in writing within 15 days of becoming aware of a breach of its obligations under the guideline.

If you would like to discuss this matter further, or have any questions, please contact Laura Considine, Director, New Markets and Innovation, [REDACTED] in the first instance.

Yours sincerely



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Jarrod Ball
AER Board Member
Dated: 29 September 2025