

Application for distribution ring-fencing waiver for the Hunter Central Coast Renewable Energy Zone

July 2025

Executive summary

Ausgrid is applying for a waiver under clause 5.2 of the Australian Energy Regulator's (**AER**) electricity distribution ring-fencing guideline (**Guideline**) to waive our compliance with clauses 4.2.1, 4.2.2 and 4.2.3 of the Guideline. If granted, the proposed waiver will allow Ausgrid to provide network services in the Hunter Central Coast Renewable Energy Zone (**HCC REZ**) alongside its existing regulated network services.

Ausgrid is a regulated Distribution Network Service Provider (**DNSP**). We operate an electricity distribution network that powers the homes and businesses of more than 4 million Australians living and working in an area that covers over 22,000 square kilometres along Australia's east coast, in Sydney, the Central Coast, and the Hunter Valley.

On 17 April 2025, Ausgrid was authorised by AEMO Services Limited, acting in its capacity as the New South Wales Consumer Trustee (**Consumer Trustee**), to develop, construct, own, control and operate the HCC REZ network infrastructure project. The HCC REZ network infrastructure project involves upgrading Ausgrid's existing distribution network infrastructure to allow an additional 1GW of network transfer capacity. As the authorised network operator, Ausgrid is responsible for the planning, design, construction, financing, operation and maintenance of the HCC REZ network infrastructure. Ausgrid's authorised provision of these services is defined in this application as the **HCC REZ network services**.

The HCC REZ network infrastructure project has been procured by the Energy Corporation of New South Wales (**EnergyCo**) as a non-contestable project, and the HCC REZ network services are non-contestable services. As the authorised network operator for the HCC REZ, Ausgrid is subject to the regulatory regime in the *Electricity Infrastructure Investment Act 2020* (NSW) (**EII Act**) and the *Electricity Infrastructure Investment Regulation 2021* (NSW) (**EII Regulation**). The HCC REZ network services will be regulated under a non-contestable revenue determination to be made by the AER under the EII Act.

HCC REZ network services will fall outside of the definition of 'direct control services' under the National Electricity Law (**NEL**) because they 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.

If Ausgrid were required to comply with the functional separation rules under the Guideline, it would give rise to unnecessary duplication of costs, including duplication of staff and other resources required to support the delivery of network services. This would mean depriving consumers of efficiency benefits that would otherwise come from Ausgrid's integrated delivery of HCC REZ network services with its existing NER-regulated services.

Granting our proposed waiver would not result in a cost or risk to consumers because the HCC REZ network services are non-contestable. Consequently, there is no risk of discrimination or of customer choice being influenced by Ausgrid's use of DNSP branding or cross-promotion. Additionally, as network operator of the HCC REZ, Ausgrid will be required to comply with the AER's revenue determination and cost allocation requirements under the EII Act. The rules relating to accounting and cost allocation applicable to Ausgrid as a DNSP under the NER will also continue to apply, meaning that there is no risk of Ausgrid being able to use the revenue from its provision of direct control services to cross-subsidise its provision of HCC REZ network services.

For these reasons, Ausgrid seeks a waiver from the staff separation, office separation and branding rules in clauses 4.2.1, 4.2.2 and 4.2.3 of the Guideline. Such a waiver would allow Ausgrid to use the same offices, staff and branding that it uses in its provision of direct control services as a DNSP in its provision of HCC REZ network services. This application provides all the information required under

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

clause 5.2 of the Guideline. **Appendix A** sets out each category of information required and the location of the information in this application.

1 Application for waiver related to providing the HCC REZ network services

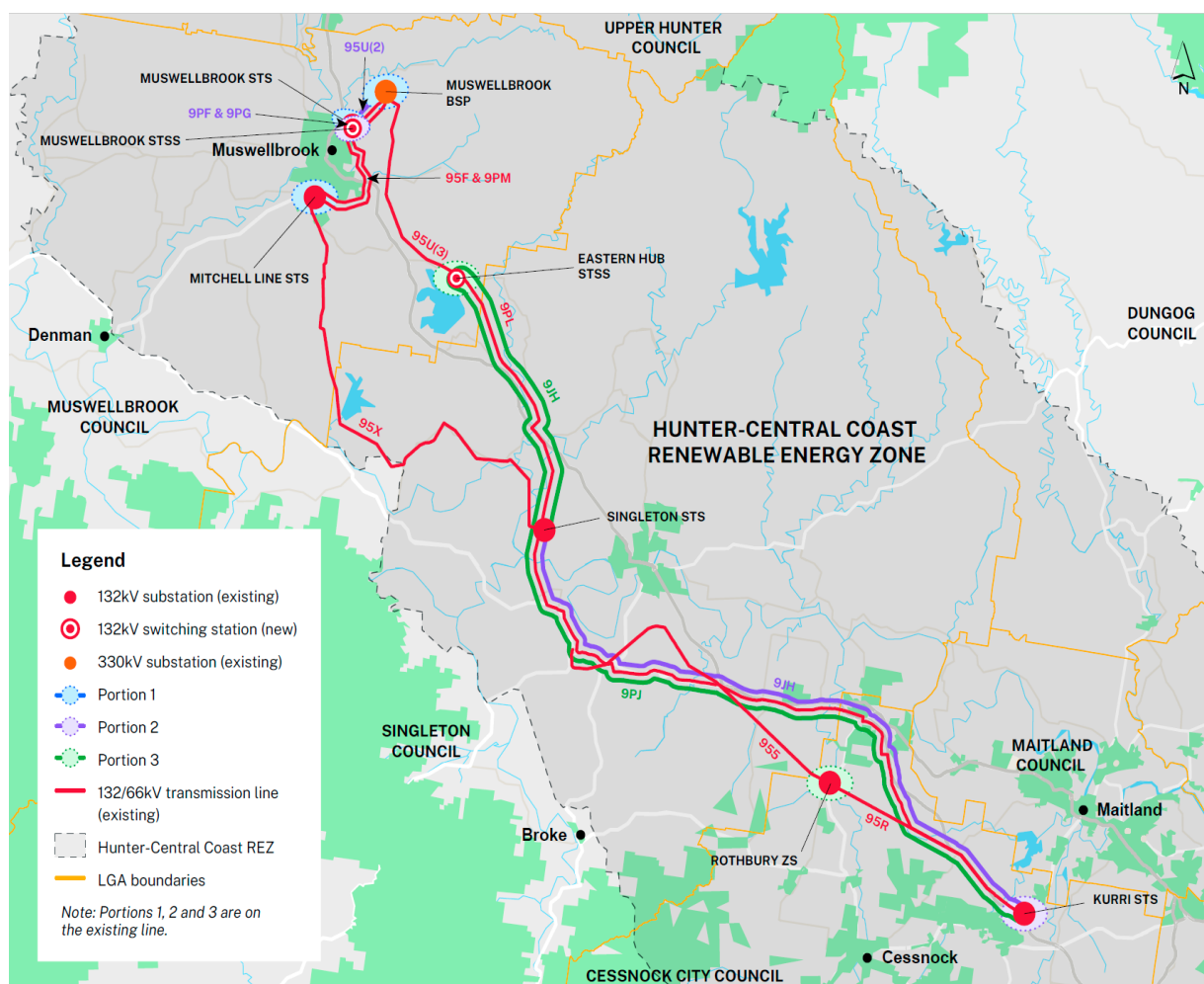
Ausgrid is applying for a waiver from staff separation, office separation and branding rules in the Guideline related to our provision of the HCC REZ network services.

The HCC REZ region spans from the Newcastle-Lake Macquarie coastline northwest up the Hunter Valley to near Scone, and is on the lands of the Awabakal, Darkinjung, Wanaruah and Worimi people.

On 17 April 2025, Ausgrid was authorised by the Consumer Trustee to act as the network operator to develop, construct, own, control and operate the HCC REZ network infrastructure project under section 31(1)(b) of the EII Act.

The HCC REZ network infrastructure project, shown in Figure 1, involves upgrading Ausgrid's existing distribution network infrastructure to allow an additional 1GW of network transfer capacity.

Figure 1: HCC REZ network infrastructure project



The project includes:²

- upgrades to modernise Ausgrid's 132 kV network in the Upper Hunter by upgrading secondary systems to enable bidirectional flow of power;

² EnergyCo, *Hunter-Central Coast Renewable Energy Zone: Recommendations Report*, April 2025, p 12. Accessible online at: <https://www.energyco.nsw.gov.au/publications/hunter-central-coast-public-infrastructure-planners-recommendations-report>.

- construction of a new 132 kV switching station at Muswellbrook and upgrade of the surrounding sub-transmission network;
- the construction of a new 132 kV sub-transmission line from Singleton to Kurri Kurri and installation of a fibre communications link across the Hawkesbury River from Berowra to Somersby; and
- construction of a new 132 kV switching station at the northeastern bank of Lake Liddell and a high-capacity double circuit connection between Antiene and Kurri Kurri.

The HCC REZ is expected to support the connection of approximately 1.8GW of new renewable energy generation and storage projects.

2 Ring-fencing obligations the subject of this application

This application seeks a waiver of the ring-fencing obligations outlined in Table 1 below to allow Ausgrid to provide the HCC REZ network services.

Table 1: Obligations for which a waiver is sought

Clause in Guideline	Description of obligation(s)	Why is waiver of the obligation(s) required?
4.2.1	Subject to clause 4.2.1, in providing direct control services (DCS), a DNSP must use offices that are separate from any offices from which a related electricity service provider provides contestable electricity services.	To allow Ausgrid to use the same offices for delivery of its DCS and HCC REZ network services.
4.2.2	Subject to clause 4.2.2, a DNSP must ensure that its staff involved in the provision or marketing of DCS are not also involved in the provision or marketing of contestable electricity services by a related electricity service provider.	To allow Ausgrid to share staff involved in the provision or marketing of its DCS and HCC REZ network services.
4.2.3	Requires a DNSP to use independent and separate branding for DCS from the branding used by a related electricity service provider for contestable electricity services. A DNSP must not advertise or promote its DCS and its contestable electricity services that are not DCS together. A DNSP must not advertise or promote contestable electricity services provided by a related electricity service provider other than the DNSP itself.	To allow Ausgrid to use the same branding for its DCS and HCC REZ network services and to allow Ausgrid to advertise and promote its provision of HCC REZ network services together with NER-regulated services.

3 Proposed effective dates of waiver and the regulatory control period(s) to which the waiver would apply

Ausgrid proposes that the waiver commence on the date of the AER's decision regarding our wavier application and remain in effect until the expiry or termination of the contractual arrangements for the HCC REZ network infrastructure project.

This period reflects the term of the Consumer Trustee authorisation (bar the start date, which for the authorisation, was 17 April 2025), being the period during which Ausgrid is authorised to provide the HCC REZ network services. It is also the period for which these services will be regulated under the EII Act, and hence not classified as 'direct control services' for the purposes of the NER and the Guideline.³

Ausgrid proposes that the waiver applies to the 2024-29 regulatory period, in addition to any future regulatory period during which the contractual arrangements for the HCC REZ network infrastructure project remain valid.

4 Grounds for seeking waiver

4.1 Ausgrid's understanding of the application of functional separation obligations

As HCC REZ network services will be regulated under the EII Act rather than a NER distribution determination, they will fall outside the definition of 'direct control services' under the NEL and NER.⁴ The HCC REZ network services will therefore be treated as contestable services for the purposes of the Guideline.⁵

- to the extent that the HCC REZ network services include services provided by means of, or in connection with, a distribution system, the services will fall within the definition of 'other distribution services' and will be deemed to be 'contestable electricity services' for the purposes of the Guideline; and
- to the extent that the HCC REZ network services are not distribution services (or transmission services) but include services for the supply of electricity or that are necessary or incidental to the supply of electricity services, these services will fall within the definition of 'other electricity services' and will be deemed to be 'contestable electricity services' for the purposes of the Guideline.

As a result, for the purposes of the Guideline, the part of Ausgrid that provides the HCC REZ network services will be considered a 'related electricity service provider' and the various functional separation obligations under the Guideline will apply.⁶ In practical terms, Ausgrid understands that the functional separation obligations would require:

- the part of Ausgrid providing the HCC REZ network services to use separate office space from the part of Ausgrid providing direct control services (clause 4.2.1(a));
- staff involved in the marketing or provision of the HCC REZ network services to not be involved in the marketing or provision of Ausgrid's direct control services (clause 4.2.2(a)); and
- Ausgrid to use independent and separate branding for its direct control services and the HCC REZ network services and not advertise or promote these services together or the HCC REZ network services at all (clause 4.2.3(a)).

In effect, Ausgrid's provision of HCC REZ network services would need to be functionally separated from its provision of NER-regulated distribution services. This is despite the HCC REZ network services being essentially the same as NER-regulated services in terms of their functionality, contestability and resources involved in their delivery. Functional separation requirements would apply simply because

³ The regulator under the EII Act (the AER) is to make revenue determinations under section 38 of the EII Act for network operators subject of an authorisation. Upon expiry of the authorisation, the REZ network services will no longer be subject to regulation under the EII Act.

⁴ *National Electricity (NSW) Law 1997* (NSW), s 2B.

⁵ *National Electricity (NSW) Law 1997* (NSW), s 2B.

⁶ See definition of 'related electricity service provider' in clause 1.4 of the Guideline.

HCC REZ network services will be regulated under a separate revenue determination issued under the EII Act.

4.2 Costs associated with Ausgrid complying with the functional separation obligations if the waiver is refused

If Ausgrid were required to comply with the functional separation rules under the Guideline (including requirements for separate staff, offices and branding), it would give rise to unnecessary duplication of costs with no corresponding benefit to NSW electricity consumers. These costs are significant, inefficient, wasteful and would deprive consumers of the benefits that would otherwise arise from Ausgrid's integrated delivery of HCC REZ network services with its existing regulated services. These efficiency benefits were intended from Ausgrid's selection as the network operator of the HCC REZ following a competitive tender process.

The unnecessarily duplication of Ausgrid's functions would ultimately lead to NSW electricity consumers paying more for the HCC REZ infrastructure project than might otherwise be the case,⁷ being a worse long-term outcome for consumers.

4.3 No risk of discrimination

In some cases, where a DNSP or affiliate entity is providing contestable services, the DNSP may have the ability to favour its affiliate entity through discriminatory provision of network services or access to customer information.

This risk does not arise in connection with HCC REZ network services. While the HCC REZ network services are deemed to be contestable services under the Guideline, they are in fact non-contestable services. They will be provided in essentially the same manner as Ausgrid's existing monopoly network services. As monopoly services, they will be subject to AER revenue determinations issued under the EII Act.⁸ 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 rationale for the Guideline's branding rules also demonstrate that they should not apply in this context as HCC REZ network services are not contestable services being marketed to consumers where there is potential for branding or cross-promotion to influence consumer choice.

4.4 No risk of cross-subsidisation

As noted above, the provision of HCC REZ network services is non-contestable, which means the usual risk of cross-subsidisation between monopoly and contestable services does not arise. This is for two reasons:

1. Due to the absence of contestability for HCC REZ network services, there is no **incentive** for Ausgrid to cross-subsidise its delivery of these services using revenues from NER regulated services.
2. In any event, there is no **ability** for Ausgrid to cross-subsidise, given strict cost allocation rules. As network operator for the HCC REZ, Ausgrid is required to comply with AER revenue determinations and its AER-approved Cost Allocation Methodology (**CAM**), which includes 'EII regulated activities' (e.g. network services within REZs) as a destination for costs to be

⁷ A similar conclusion was drawn by the AER following assessment of the benefits and costs of DNSPs complying with ring fencing obligations for the Central-West Orana REZ – AER, 'Decision Distribution ring-fencing class waiver for the Central-West Orana Renewable Energy Zone', (March 2022) p 10.

⁸ EII Regulation, pt 9. See also AER, 'Appendix A EII Chapter 6A Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects' (July 2024); AER, 'Guideline Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects' (July 2024). Ausgrid submitted its proposed revenue determination for the HCC REZ network infrastructure project on 16 May 2025.

allocated.⁹ Similarly, as a regulated DNSP under the NER, Ausgrid is required to comply with AER determinations regarding its cost allocation methodologies.

While the Guideline does not require legal separation of NER-regulated distribution services from other distribution services, Ausgrid is required to comply with cost allocation requirements in respect of its provision of NER-regulated and other distribution services.¹⁰ These requirements cannot be waived.¹¹ Given these cost allocation requirements, there is no risk of Ausgrid seeking to use revenues from provision of direct control services to cross-subsidise its provision of HCC REZ network services if the waiver is granted.

4.5 Granting the waiver would promote the National Electricity Objective and benefit the long-term interests of consumers

Ausgrid's proposed waiver would promote more efficient delivery of the HCC REZ and non-REZ network services by avoiding the need for unnecessary duplication of costs.

Enabling more efficient delivery of the HCC REZ network services is also likely to have several indirect consumer benefits, including:

- **Supporting the achievement of emissions reductions targets set by New South Wales,** including:
 - the NSW Government's target to reduce greenhouse gas emissions to its 2005 levels by at least 50 per cent by 2030, 70 per cent by 2035, and to net zero by 2050;¹² and
 - the infrastructure investment objective under the EII Act of connecting 12GW of renewable generation infrastructure by 2030.¹³

Efficient delivery of the HCC REZ network infrastructure will support the connection of new renewable energy generation that is expected to reduce NSW power system emissions by approximately 2 million tonnes of carbon dioxide equivalent over the life of the project (relative to a scenario where no HCC REZ is built).¹⁴ These emissions reductions equate to a benefit of approximately \$180 million to NSW electricity consumers.¹⁵

- **Maintaining the reliable and secure supply of electricity** - As coal-fired generators retire, the supply of electricity from renewable generators will become increasingly critical to maintain the reliable and secure supply of electricity to NSW consumers. Efficient delivery of the HCC REZ network infrastructure will support the timely connection of new renewable electricity generators to replace the retiring coal fleet.
- **Allowing Ausgrid to draw on its experience in the provision of direct control services** – including in relation to network safety, reliability, work health and safety, and network, data and cyber security. Ausgrid has extensive experience and a long track record of maintaining the safety, security and reliability of supply of critical energy infrastructure to meet the long-term interests of electricity consumers. The proposed waiver will allow Ausgrid to draw on our extensive experience in providing network services, including through the use of common staff across REZ and non-REZ services.

⁹ Ausgrid, '2026-31 HCC RNI Project Attachment 6.4 Cost Allocation Methodology' (16 May 2025), pp 9 ([2.2]), 10 ([3.1]).

¹⁰ Guideline, cl 3.2.2.

¹¹ Guideline, cl 3.2.2(d).

¹² EnergyCo, *Hunter-Central Coast Renewable Energy Zone: Recommendations Report*, April 2025, pp 11, 20.

¹³ EII Act, s 44.

¹⁴ EnergyCo, *Hunter-Central Coast Renewable Energy Zone: Recommendations Report*, April 2025, p 5.

¹⁵ EnergyCo, *Hunter-Central Coast Renewable Energy Zone: Recommendations Report*, April 2025, p 22.

The improvement in efficiency and associated benefits would come at no cost to consumers as there is no risk of discrimination or cross-subsidisation from granting our proposed waiver. Ausgrid does not foresee any benefit to consumers from us complying with clause 4.2.1, 4.2.2 and 4.2.3 of the Guideline, and the costs incurred to comply with the Guideline would flow to consumers. Therefore, granting the waiver is clearly in the long-term interests of consumers.

5 Any additional measures Ausgrid proposes to undertake if the waiver were granted

If the proposed waiver was granted, for the reasons set out above in section 4, no additional measures are necessary for Ausgrid to undertake as there is no risk of discrimination or cross-subsidisation.

For completeness, Ausgrid notes that there are several requirements in the Guidelines and annual information order from the AER that will apply to Ausgrid even if a waiver is granted. These include:

- rules relating to accounting and cost allocation, as discussed above;¹⁶
- non-discrimination obligations;¹⁷
- information access and disclosure obligations;¹⁸ and
- annual audit submitted to the AER,¹⁹ which includes an audit of HCC REZ network services an EII Act regulated activity included in our CAM.²⁰

Ausgrid will continue to comply with these obligations if a waiver is granted.

¹⁶ Guideline, cl 3.2.

¹⁷ Guideline, cl 4.1.

¹⁸ Guideline, cl 4.3.

¹⁹ AER, 'Annual Order – Electricity distributors' (April 2024), s 1.6.1(d).

²⁰ Ausgrid, 'Cost Allocation Methodology' (February 2025) ss 2.2, 3.2; AER, 'Annual Order – Electricity distributors Appendix A – Data workbooks instructions' (April 2024), s 1.2.1.

Appendix A: Application checklist

Clause 5.2 of the Guideline sets out the requirements for a waiver application. The table below indicates where in this application the relevant information can be found.

Required information in clause 5.2 of the Guideline	Section of this application
(a) The obligation in respect of which the DNSP is applying for a waiver	Section 2
(b) The reasons why the DNSP is applying for the waiver	Sections 4
(c) Details of the service, or services, in relation to which the DNSP is applying for the waiver	Section 1
(d) The proposed commencement date and expiry date (if any) of the waiver and the reasons for those dates	Section 3
(e) Details of the costs associated with the DNSP complying with the obligation if the waiver of the obligation were refused	Section 4.2
(f) The regulatory control period(s) to which the waiver would apply	Section 3
(g) Any additional measures the DNSP proposes to undertake if the waiver were granted	Section 5
(h) The reasons why the DNSP considers the waiver should be granted with reference to the matters specified in clause 5.3.2(a), including the benefits, or likely benefits, of the grant of the waiver to electricity consumers	Section 4