Consumer
Challenge
Panel

CCP35 Advice to AER – AER Preliminary Position Transgrid Central West Orana RNIP (Non-contestable) 2026-31- Revenue proposal

Consumer Challenge Panel (CCP) Sub-Panel CCP35

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Acknowledgement of Country

I acknowledge the Traditional Custodians of the various lands on which Transgrid owns and operates its networks and facilities. I honour the customs and traditions and special relationship of those Traditional Custodians with the land as well as those where this report is being prepared. I respect the elders of these nations, past and present.

Confidentiality

To the best of my knowledge this report does not present any confidential information.

Table of Contents

1 Summary

Overview

In November 2024 the Australian Energy Regulator (AER) established a Consumer Challenge Panel subpanel (CCP35) for the Central West Orana (CWO) (Transgrid) and Hunter Central Coast (HCC) (Ausgrid) Renewable Energy Zone (REZ) non-contestable 2026-2031 revenue determinations to provide advice on the following:

1. The effectiveness of the network operator's engagement activities with consumers and how this is reflected in the development of the respective network's revenue proposals.
2. Whether the network operator's proposal, or elements, are in the long-term interests of consumers.

Transgrid lodged its Revenue Proposal 2026-31 (the proposal) with the AER in relation to the NSW CWO project in late July 2025, which the AER subsequently published on 5 August 2025.

The AER received four submissions on Transgrid's proposal, including a submission from two members of Transgrid's Advisory Council (TAC), one from the Energy Users' Association of Australia (EUAA), one from Save Our Surroundings Riverina and my CCP advice. Copies of those submissions can be found on the AER's website.[1]

The AER has undertaken its preliminary assessment of Transgrid's proposal under the NSW Electricity Infrastructure Investment (EII) Act 2020, and also considered issues raised in the four submissions. The AER published its Preliminary Position Paper (PPP) on Transgrid's proposal on 20 October 2025.

This CCP advice responds to the AER's PPP.

Conclusion

Under the EII Act Transgrid had limited time to prepare its revenue proposal and similarly the AER had limited time to prepare its PPP. Additionally, the regulatory process is new, the scope of the proposal over which consumers can influence is limited and various aspects are subject to confidentiality claims.

The collective expenditure required for network operators to deliver projects to support the energy transition significantly impacts consumers. Consumers are more likely to support the energy transition if they can trust the processes and decisions to enable those projects to proceed. Further, consumer confidence in the regulatory process will be greater if a network operator has engaged effectively on those aspects of the revenue proposal that consumers can influence.

Notwithstanding the various constraints associated with the development of this regulatory proposal, I consider the AER has demonstrated good practice in the regulatory process to inform its preliminary position. The AER's PPP identified various contentious issues arising from Transgrid's proposal, including issues raised in submissions.

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1 AER, *Central West Orana Renewable Energy Zone Network Infrastructure Project (non-contestable) Proposal*, 31 July 2025, https://www.aer.gov.au/industry/registers/determinations/enabling-central-west-orana-renewable-energy-zone-network-infrastructure-project-non-contestable/proposal#submissions, viewed on 9 November 2025.

CCP35 Advice to AER – CWO REZ revenue proposal (AER preliminary position)

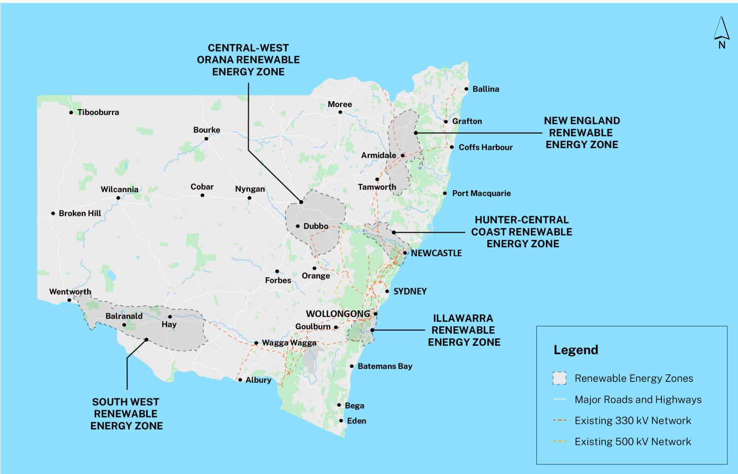
Overall, I support the AER's preliminary position related to Transgrid's non-contestable CWO REZ project revenue proposal. Acknowledging the limited evidence of consumer preferences due to various limitations with Transgrid's engagement and considering the views presented in other submissions along with my own views, the AER's preliminary position is more likely to be in the long-term interests of consumers compared to Transgrid's proposal.

2 Context for this advice

In 2021 the NSW Government under the NSW EII Act[2] appointed the AER as the economic regulator of infrastructure projects within its REZ along with the Energy Corporation of NSW (EnergyCo) as the infrastructure planner and AusEnergy Services Limited (ASL and known as formerly AEMO Services) as the Consumer Trustee to develop designated REZ in line with the NSW Electricity Infrastructure Roadmap[3]. EnergyCo, under the EII Act, as the NSW infrastructure planner, recommends REZ projects for NSW. ASL as the independent Consumer Trustee, is responsible for authorising projects and setting the maximum prudent, efficient and reasonable project costs.

To date the NSW Government has declared five REZ shown on the attached map:[4]

Figure 2-1: NSW Renewable Energy Zones (May 2025)



On the recommendation of EnergyCo, the Consumer Trustee appointed Transgrid to deliver the Enabling CWO REZ project, which largely involves upgrades to Transgrid's existing transmission network, thereby reducing the impact on land, communities, the environment and cost.

The AER's role is to assess whether the network operator's costs to deliver a (predefined) REZ project are "prudent, efficient and reasonable".[5]

The AER expects network operators to develop their proposals in line with the *Better Resets Handbook*, and for a network operator to conduct "comprehensive pre-engagement" [6] with the AER and stakeholders on the content before the network operator lodges its proposal. Transgrid lodged its proposal with the AER in July 2025. The AER received four submissions on Transgrid's proposal in advance of publishing its preliminary position paper in November 2025.

2 https://legislation.nsw.gov.au/view/html/inforce/current/act-2020-044, viewed on 27 May 2025
3 https://www.energy.nsw.gov.au/nsw-plans-and-progress/major-state-projects/electricity-infrastructure-roadmap, viewed on 27 May 2025
4 https://www.energyco.nsw.gov.au/renewable-energy-zones/renewable-energy-zone-locations, viewed on 27 May 2025
5 Electricity Infrastructure Investment Amendment (Network Infrastructure) Regulation 2024, 19 January 2024, cl. 47E(4)
6 AER, *Explanatory Statement, Final amendments to Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects,* July 2024

3 Regulatory decision-making challenges

3.1 Key regulatory challenges

All parties have faced a number of challenges in their respective roles related to the development and Transgrid's revenue proposal and the AER's assessment:

- A regulatory determination under the NSW EII Act is new.
- The AER's guideline for non-contestable projects, including the benefit of consumer engagement in line with *Better Reset's Handbook* expectations, had not been tested until Ausgrid developed its revenue proposal for the HCC REZ project at a similar time that Transgrid was preparing its proposal.
- The time frame for Transgrid to engage with customers pre-lodgement, including preparing a draft plan and receiving feedback is limited under the EII Act, compared to a regulatory proposal developed under the National Electricity Rules. This limits the scope and depth of engagement on matters in scope.
- The project itself, such as the location and infrastructure requirements, are out of scope for the revenue proposal.
- Much of the detailed material that sits behind Transgrid's proposal is confidential, including details of its contractual relationship with EnergyCo, and an assessment of specific information such as assumptions underpinning tenders for outsourced work were out of scope for any engagement or consumer challenge.
- The AER also has limited time to assess a proposal under the EII Act.
- The AER's role as a regulator under the EII Act is to assess whether the network operator's costs to deliver a predetermined REZ project[7] are "prudent, efficient and reasonable".[8] Whereas the meanings of "prudent" and "efficient" have been established under the NER, the meaning of the term "reasonable" is unique to the EII Act and has not been tested.[9]
- While the AER scrutinises a network operator's project costs to assess their prudency, efficiency and reasonableness, it is not the AER's role to determine the size and scale of REZ projects per se.

3.2 The need for consumer support for projects to facilitate the energy transition

Consumers are more likely to support the energy transition if they can trust the processes and decisions to enable those projects to proceed. As noted by the Race for 2030:[10]

> "A key determinant of the success of the energy transition over the next decade will be the degree of confidence that customers have that this transition will serve and protect their interests. This requires a clear appreciation of both what customers see as their interests in this context, and the extent to which customers trust the energy sector and government to serve these interests."

[7] The project scope and scale are EnergyCo's responsibility.
[8] NSW Government, *Electricity Infrastructure Investment Amendment (Network Infrastructure) Regulation 2024*, 19 January 2024, cl. 47E(4)
[9] Although, I acknowledge the AER has responded to this concern in its *Preliminary Position Paper on Preliminary Position Paper Hunter-Central Coast REZ network infrastructure project (non-contestable) (1 July 2026 to 30 June 2031)*, published in August 2025
[10] Race for 2030, *C9 Research Project, Benchmarking customer priorities and trust in the energy sector, Final Report*, May 2024, p. 8

Much has been written on the subject of trust and factors that influence trust. Earlier this year the OECD published the findings of its 2023 *OECD Trust Survey* of a representative sample of more than 2,000 Australians. The survey identifies a number of values that drive public trust in public policy making and implementation in Australia.[11] The three domains identified in the report are: openness, integrity and fairness.[12] Of particular relevance is "openness" which includes ease and availability of information (transparency) providing clear explanations (reasoning), as well as providing citizens with an opportunity to voice opinions.

The collective expenditure required for network operators to deliver projects to support the energy transition significantly affects consumers, as they are expected to pay for the projects through their energy bills. The predefined project scope, and timeframes and various confidential inputs into Transgrid's proposal, such as procurement costs that are outside Transgrid's control, have limited the extent that Transgrid was able to openly engage customers. Disappointingly, Transgrid's engagement has largely been limited to informing members of the TAC as it developed its proposal. However, as demonstrated by Ausgrid, meaningful engagement in line with the *Better Resets Handbook* expectations is not only possible but leads to better outcomes for consumers. Transgrid's limited engagement and other constraints also have implications as the AER has limited evidence of consumer preferences to help inform its regulatory decision making.

Consequently, a need for trust in the regulatory process and decision making is heightened. It is not sufficient to assume consumers or consumer representatives will automatically trust decision makers, particularly when consumer support is essential for an efficient transition to a sustainable energy future and consumers are facing escalating energy bills.

3.3 Consumer perspectives on Transgrid's proposal and advice to the AER

As mentioned earlier the AER received four submissions on Transgrid's proposal, including my CCP advice.

Those submissions raised various concerns with Transgrid's proposal including:

- Limited meaningful engagement to elicit consumer perspectives and effectively help shape Transgrid's proposal
- A need for greater transparency around project costs, risks and risk allocation, with significant concerns around the asymmetry of risks that unduly exposes (small) consumers to higher costs
- Lack of transparency from Transgrid or EnergyCo in relation to community support/social licence for the project and environmental consequences

Consequently, submissions provided recommendations to both Transgrid directly and the AER. In particular stakeholders expect Transgrid to ensure its engagement approach yields meaningful customer/consumer feedback that helps inform decision making, which ideally would be facilitated through a dedicated consumer panel.

Stakeholders also expect the AER to be clear about its expectations of network consumer and engagement on transmission and other projects and require network operators to reflect consumer preferences in their revenue proposals. They also expect the AER to be as transparent as possible

[11] OECD, *Drivers of Trust in Public Institutions in Australia, Building Trust in Public Institutions*, 2025, OECD Publishing, Paris

[12] Ibid.

and to encourage transparency from other stakeholders. Submissions also expect the AER to closely scrutinise aspects of the CWO REZ project and Transgrid's proposal, particularly given the criticisms over Transgrid's (lack of meaningful) engagement. Submissions also encouraged the AER to seek greater transparency from EnergyCo particularly given a network operator can recover the cost of early works that it carries out for the Infrastructure Planner and those costs have not been transparent.

I note from the public forum that Transgrid is committed to strengthening its engagement, including establishing consumer representatives (only) panel with an independent chair to engage on future regulatory proposals. TAC consumer representatives who presented at the public forum were hopeful of an improved engagement processes that elevate consumer perspectives in the development of Transgrid's regulatory proposals. Although Transgrid's initiative is too late for this project, I commend Transgrid for listening and responding to feedback and look forward to Transgrid's future revenue proposals better reflecting consumer preferences.

To this end, I have appended some recommendations to my advice which may assist Transgrid in the future.

4 Support for the AER's preliminary position

Despite the novelty of this revenue determination and the various challenges, the AER has responded well to the issues raised in submissions and demonstrated transparency and reasoning for its preliminary positions.

4.1 AER engagement

In relation to good engagement:

- The AER has been a constant presence at Transgrid's meetings with the TAC, as an observer and to respond to questions as appropriate.
- I expect the AER has a greater appreciation of consumer perspectives through its observations and attendance at Transgrid's TAC meetings.
- Some TAC consumer representatives have separately indicated they have appreciated the opportunities to meet with the AER, and the AER has listened to them and been responsive to their issues.
- The AER's public forum provided interested parties with an opportunity to learn more about the CWO REZ project, Transgrid's proposal, the AER's PPP and consumer perspectives and to question and challenge the AER and others.

4.2 Transparency and reasoning

In relation to transparency and reasoning:

- The AER's PPP **acknowledges the issues raised in submissions**, such as concerns about Transgrid's engagement approach, and the AER's expectations of engagement, lack of transparency and the meaning of "reasonable" in relation to expenditure proposals under the EII framework as well as more substantive aspects of Transgrid's proposal including its financeability proposal.
- The AER has **explained its response to the issues raised in the submissions** (as mentioned in the previous bullet point) in the PPP.
- The AER has considered stakeholder submissions in its PPP and demonstrated how it considered them in its decision-making. For example, the AER notes in relation to Transgrid's financeability proposal:[13]

> "In light of stakeholder concerns around the lack of transparency and meaningful engagement, we have chosen to highlight these modelling assumptions in our preliminary position paper."

- The **AER has also sought broader transparency from EnergyCo in response to issues raised in submissions**. For example, in the interest of transparency and public interest the AER wrote to EnergyCo to seek information regarding the governance and nature of the infrastructure planner fees for the CWO Enabling Project. [14] The AER is expecting the outcome to be similar to the HCC REZ project which saw Ausgrid and Energy Co retract most of the confidentiality claims and the

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[13] AER, *Preliminary Position Paper – Enabling Central-West Orana REZ network infrastructure project (non-contestable),* October 2025, p.29

[14] Ibid, p.20

AER publishing details of the adjustment mechanisms for the relevant procurement induced cost uncertainty contractual compliance events in and appendix to its PPP.[15] The AER notes in its Transgrid PPP:[16]

> "We expect similar governance arrangements to be in place for the CWO Enabling Project".

- I am aware the AER has been responsive to issues raised by selected consumer representatives related to Transgrid's proposal.
- TAC consumer representatives who spoke at the AER's public forum on 10 November 2025 were clearly supportive of the AER's PPP.

4.3 Comments on PPP focus issues

4.3.1 Financeability

Any financeability adjustment has the potential to lead to a significant cost imposition on consumers. Although the TAC did not support accelerated depreciation becoming a norm for financing REZ projects, Transgrid's proposal included a request to accelerate depreciation of $23.7 million (nominal) of capital expenditure and Transgrid excluded the Barrigan Creek Switching Station (BCSS) from its financeability assessment.[17] Transgrid also sought clarity as to how financeability guidelines would be applied in its proposal.

In my advice to the AER on Transgrid's proposal, I noted:[18]

> "Any financeability decision needs to fairly consider the affordability implications for consumers against Transgrid's concerns about any potential financeability risks and the decision must be transparent."

Following its financeability assessment under the AER's Financeability Guideline, the AER has formed a preliminary position that Transgrid's CWO Enabling Project does not require a financeability adjustment.[19]

Notably at the AER's public forum on 10 November 2025, Transgrid advised that it is no longer seeking a financeability adjustment.

[15] AER, *Preliminary Position Paper – Hunter-Central Coast REZ network infrastructure project (non-contestable) – Supplementary Appendix: Adjustment mechanisms,* August 2025, Table A3, pp.14-22

[16] AER, *Preliminary Position Paper – Enabling Central-West Orana REZ network infrastructure project (non-contestable),* October 2025, p.20

[17] Transgrid, 2026-31 *Revenue Proposal Enabling Central-West Orana Renewable Energy Zone Network Infrastructure Project (non-contestable),* July 2025, p. 93

[18] Bartley, H., CCP35 Advice to AER – Transgrid - Central West Orana RNIP 2026-31- Revenue Proposal, August 202, p.28

[19] AER, *Preliminary Position Paper – Enabling Central-West Orana REZ network infrastructure project (non-contestable),* October 2025, p.24

4.3.2 Capital expenditure – pre-period costs

Transgrid's proposal includes $158.3 million of Infrastructure Planner Fees (IPFs) pre-period capex and $9.5 million for early development activities incurred before it signed the Project Development Deed with EnergyCo.

It is not the AER's role to assess the prudency, efficiency and reasonableness of the IPF. However, the AER has carefully considered Transgrid's modelling approach to recover the IPF and has concluded that Transgrid's proposed approach would lead it to recovering more ($ nominal) than it is required to pay EnergyCo.

The AER has also rejected Transgrid's early pre-period costs on the basis that Transgrid has not adequately justified the relevance of the expenditures to the scope of the CWO Enabling Project as authorised by the Consumer Trustee.

Whilst I am not an expert on these subjects, I commend the AER for its detailed assessment and transparent explanation that has resulted in a better affordability outcome for consumers in the AER's PPP than Transgrid's proposal offers.

4.3.3 Capital expenditure sharing scheme

Transgrid proposed a modified CESS that included a sharing ratio of 30% of capex overspends and 10% of underspends, and for capex overspends or underspends that exceed the 10% cap, the sharing ratio should be set to the average of the financing cost or benefit, respectively. Transgrid considered this approach balances the share of risk and benefits between consumers and Transgrid. Transgrid argued that its proposed approach was consistent with the AER's Humelink determination, which the TAC challenged Transgrid to explain.

The AER rejected Transgrid's proposed modified CESS in its PPP and advised it will apply the standard CESS as per version 4 of the Capital Expenditure Incentive Guidelines, for various reasons and in particular the consumer benefit of Transgrid's proposal was not apparent and the proposal was not consistent with stakeholders' views. I therefore commend the AER for its preliminary position in relation to the CESS.

4.3.4 Adjustment mechanisms (and risk)

While Transgrid identified risk as an area where stakeholders could have high influence, its engagement with the TAC was mostly informing and consulting rather than collaborating, although the TAC suggested adjustment mechanisms and risk management should be considered together.

TAC members raised concerns about transparency, cost overruns, and the effectiveness of risk allocation. Transgrid proposed adjustment mechanisms for certain risks, with some caps, but details remain confidential. The CCP urged the AER to scrutinise Transgrid's claims and consider capping more adjustment events to protect consumer interests and maintain cost control.

Transgrid's proposal included 29 proposed adjustment mechanisms including, six prescribed adjustment mechanisms, four associated with BCSS related costs, four nominated pass-through adjustments, four related to contractual arrangements, three related to routine administrative events and eight for uncontrollable events. I commend the AER for explaining how it assessed and Transgrid's proposed adjustment events and in particular its consideration as to who is best placed to manage certain risks, such that the burden is not shifted onto consumers without sufficient evidence or reasoning.

If Transgrid needs to seek any adjustments that are material to the proposal, it is important that consumer views are sought and the proposal is supported by evidence of genuine consumer engagement and incorporates consumer feedback. Over time, various Consumer Challenge Panel members have expressed concern that historically, consumer engagement on reopeners is limited or even absent and so it is difficult to establish that any reopener or adjustment event is in the long-term interests of consumers.

I therefore encourage the AER to establish a process (such as a customer panel and a CCP) to ensure consumer views are considered should Transgrid seek any adjustments to its proposal in the future.

5 Conclusion

In my previous advice, I concluded:

> "I am not convinced that Transgrid's proposal adequately reflects consumer preferences, given the structure of the TAC, the limitations of Transgrid's engagement approach and the lack of any formal independent engagement report, and I hope to see these concerns reflected in the AER's preliminary position."[20]

It is unfortunate that Transgrid's engagement has fallen short of *Better Resets Handbook* expectations. Regardless, I commend the small number of customer representatives who are members of Transgrid's TAC for their persistent questioning of Transgrid and the AER and their detailed written submissions on Transgrid's revenue proposal, despite the limited support from Transgrid.

In relation to the AER's preliminary position, I commend the AER for demonstrating genuine commitment to listen and respond to consumer representatives' views in forming its preliminary position. Importantly, the concerns expressed in the AER's preliminary position paper provide clear direction as to the AER's expectations for network engagement to inform REZ revenue proposals.

Unfortunately, there is no opportunity for Transgrid to recommence its engagement to address the AER's concerns in relation to the CWO REZ project proposal, given the regulatory framework. Regardless, I trust that Transgrid will learn from this experience so that future revenue proposals consider consumer preferences that are informed by sound engagement in line with *Better Resets Handbook* expectations. I note the AER's PPP includes some advice to Transgrid around the actions it could take to improve stakeholder engagement. I fully support the AER in this regard. As previously mentioned, I have also appended my recommendations around consumer engagement for Transgrid to consider.

Finally, the AER could use the knowledge gained from both Ausgrid's and Transgrid's approaches to produce an appendix to the *Better Resets Handbook* to set its expectations for network operators' engagement to inform non-contestable REZ revenue proposals in the future.

[20] CCP35, *CP35 Advice to AER – Transgrid - Central West Orana RNIP 2026-31- Revenue proposal,* August 2025, p.31

Appendix: Recommendations to Transgrid

1. Learn from networks that have been commended for good engagement practice
    - Other network operators (Ausgrid) have developed fit-for-purpose consumer approaches to elicit consumer preferences to inform their REZ project revenue proposals and have demonstrated that well-informed consumer representatives can help inform a regulatory proposal that reflects consumer preferences
2. Establish a dedicated panel of consumer representatives who will focus on consumer interests, rather than the current TAC structure which is not specifically focused on consumer interests
    - Recruitment processes need to be transparent
    - The panel does not need to be large although its members should be able to consider different consumer perspectives
    - Panel members should be fairly paid for their time; including a fair and reasonable allowance review and respond to proposals
    - There may be value in appointing a chair from the panel membership, or an independent chair
3. Establish clear terms of reference for the consumer representative panel, which the panel agrees to, and forms the basis of assessing the panel's performance.
4. Pre-lodgement engagement needs to commence as early as possible, particularly given the short time frames for REZ project proposals and regulatory decisions
    - The focus of engagement should be on material topics, topics of interest to consumers and where consumers can influence outcomes
    - Panel members should be consulted on the engagement approach, such as meeting times, structure etc.
5. Greater value is derived from a consumer representative panel if:
    - Members can contribute to the agenda
    - Engagement extends beyond *informing* participants to at least *involving* them in the development of regulatory proposals
    - Members feel their contributions to discussions are listened to and valued
    - Members are encouraged to challenge the business, and the business provides timely and clear responses
    - Transgrid responds in a timely way to information requests from members
    - Members are free to raise issues that are out of scope (this does not mean out of scope issues have to be discussed, but they should be acknowledged)

- Members are provided opportunities to attend site visits and landholder meetings to gain a deep understanding of the project and form their own views of project risks and challenges (e.g. social license, environment)

6. Develop and commit to reasonable timelines with panel members including allowing sufficient time for panel members to review and respond to a draft proposal.
7. Closing the loop –a revenue proposal needs to explain how it was informed by consumer preferences and if a revenue proposal does not align with consumer preferences, then the network operator should explain why the proposal is based on an alternative view.
8. Embed monitoring and evaluation principles and processes into the engagement approach (and in line with the terms of reference) to ensure the processes and outcomes are delivering value for the network operator and the panel.