Sydney
Bay 5-7 North,
2 Locomotive St,
Eveleigh 2015

Brisbane
Level 4, 410 Queen St
Brisbane, QLD 4000

Melbourne
Level 14, 333 Collins St
Melbourne, VIC

www.evie.com.au [redacted]

Submission to Australian Energy Regulator

Review of the Ring-fencing Guideline (electricity distribution) v4 and Shared Asset Guideline v2

Evie Networks | 6 August 2026

About Evie Networks

Evie Networks is Australia's largest owner-operator of public direct-current (DC) fast EV charging infrastructure. Since our establishment in 2018 we have built a national network of more than 300 charging stations and 1,000 bays of charging, serving all capital cities, intercity corridors and regional areas.

Over the past twelve months alone our national network has delivered approximately 40 GWh to drivers, enabling about 300 million kilometres of zero tail-pipe emission travel for drivers of passenger cars, light commercials and an emerging cohort of battery-electric trucks.

Executive Summary

The energy transition is increasing the range of services provided through distribution networks, but it has not changed the fundamental purpose of ring-fencing: to prevent a regulated monopoly from using consumer-funded assets, essential network inputs, information, systems and customer relationships to advantage itself or an affiliate in a competitive market.

Australia's EV charging rollout will depend on mobilising competitive private investment at scale. Electricity networks have an essential enabling role through timely connections, fair facility access, transparent network information and efficient tariffs. They should not use their control of those monopoly inputs to become consumer-funded competitors in the downstream charging market.

Successive waivers, trials and government-funded programs have progressively blurred the boundary between regulated and contestable activities, exposing shortcomings in both the current Ring-fencing Guideline and its enforcement by the AER. As the Call for Input notes, the AER assessed 47 waiver applications or related matters between 2022 and 2025, with the annual number rising from 10 in 2022 to 19 in 2025. Only one waiver has ever been rejected[1].

Evie considers that the key challenge for the AER in undertaking the current review is to ensure that ring-fencing obligations are appropriately monitored and enforced, while preventing individual waivers and program-specific rule changes from setting precedents that progressively expand the regulated monopoly into competitive activities.

Recent waiver applications have not clearly demonstrated a genuine market failure, the necessity of DNSP involvement, or the absence of commercial alternatives. Government-funded initiatives requiring bespoke rule changes, namely the recent *Accelerating Electric Vehicle Charging (AEVC)* Program, have similarly pushed the boundary between regulated and contestable activities without fully resolving these concerns. The recent CitiPower, Powercor and United Energy, and Essential Energy trial waiver applications, together with the Ausgrid and PLUS ES trial arrangements, have also shown that functional separation, non-discrimination, cost allocation and waiver conditions remain difficult for market participants - and, in practice, the AER - to observe, test and enforce.

The AER review is also occurring in parallel with the AEMC's Electricity Network Regulation Review (ENRR), which is considering service classification and the boundary between regulated and contestable services. Those issues are inseparable from ring-fencing and shared-asset treatment. Evie recommends that the AER avoid changes that presume an ENRR outcome and commit to formally reviewing both Guidelines again once the relevant AEMC work has concluded.

Evie supports the core direction of Nexa Advisory's rule change request being progressed alongside the ENRR. Core competitive protections and waiver decision principles should be elevated into the National Electricity Rules (NER). This preserves regulatory flexibility while ensuring that the essential boundary cannot be progressively weakened through discretionary guidance or case-specific waivers.

Investor confidence is critical because Australia's charging rollout depends on mobilising private capital at scale. Approximately $4–5 billion of investment in charging infrastructure will be required by 2030[2], while DCCEEW estimates that around 78,000 public charge points - approximately eight times current deployment - will be needed to support projected EV uptake under AEMO's Step Change scenario[3].

---

[1] AER - Questions taken on notice - Review of ring-fencing guideline & shared asset guideline workshops

[2] Legislative Council Economy and Infrastructure Committee, Inquiry into Electricity Supply for Electric Vehicles - Public Hearing Transcript, 26 February 2026, p. 4, evidence of Bernhard Conoplia, Evie Networks.

[3] AEMC, Facilitating electric vehicle charging infrastructure rollout under Commonwealth grants consultation paper, 28 May 2026

Capital is mobile. Evie's experience in the market is that every investor and financier active in, or considering, Australian EV charging already prices in the risk that a regulated monopoly will be granted access to compete in the same market whose essential inputs it controls. Sustained uncertainty over that boundary will not just slow investment – it will redirect it to jurisdictions and sectors where the rules are clear.

Government and electricity consumers cannot fund the energy transition alone. The regulatory framework must therefore attract and leverage competitive investment, rather than displace it through regulated monopoly ownership.

Evie considers that any compliance costs associated with effective ring-fencing should be assessed against the much larger consumer cost if private capital is delayed or redirected because investors expect to compete against a DNSP that controls their connections, access to poles and network information, and ongoing network tariffs.

1. Sequencing and regulatory architecture

Q1: Have we accurately described the key changes occurring in distribution networks and the broader energy system? Are there any important developments or trends we have not captured?

Q4: Do you consider the scope of this review to be appropriate? Are there additional areas of focus that you should believe should be included?

1.1. The review is welcome, but cannot be separated from service classification

Service classification determines which services sit within economic regulation. Ring-fencing, cost allocation, connections and facility access arrangements then follow that boundary. Accounting and functional separation are necessary safeguards, but they cannot correct an incorrectly drawn monopoly boundary or remove the structural advantage created where the party controlling a competitor's connection and tariff also participates downstream.

The exclusion of service classification from the scope of this review creates a material limitation. Ring-fencing obligations cannot be assessed in isolation from the boundary they are intended to protect, particularly where that boundary remains unclear and contested. While service classification is being considered through the AEMC's Electricity Network Regulation Review, the AER should avoid amendments that assume particular emerging services will sit within the DNSP or that normalise an enduring DNSP role before these questions are resolved.

If the ENRR or related rule changes alter service classification, the AER should commit to promptly reopening or formally reassessing the Ring-fencing and Shared Asset Guidelines.

1.2. The review assumes an overstated role of DNSPs and ignores recent hard lessons learnt

In the Call for Input document for this review, the AER states[4]:

"New business models and technologies such as EV charging infrastructure, community batteries, and flexibility services are challenging traditional definitions of distribution services, making it difficult to distinguish between regulated monopoly functions and activities more appropriately delivered by, or in conjunction with, parties unaffiliated with the DNSP."

This statement is inaccurate, presumptuous and misaligned with the fundamentals of economics. Change is a universal constant and the continuous development of new technologies does not inherently challenge the definitions of distribution services. Nor does new technology make it difficult to distinguish between regulated monopoly functions and activities best performed by the competitive market. For example, a simple scan of more developed markets for EV uptake, such as the Netherlands and United Kingdom, would demonstrate that no comparable market has adopted a DNSP-led model successfully. The markets that have got EV charging right share three things instead:

- Centralised planning aligned to local customer demand
- Networks having an essential enablement role
- Infrastructure delivered by the competitive market, with government funding multiplied by private investment

The only stakeholders that claim the lines are blurred between monopoly service definition and competitive market services are DNSPs themselves, as it serves to fulfill the publicly stated goal of expanding the Regulated Asset Base.

We are therefore concerned that the AER's statement suggests that the AER has forgotten the hard lessons learnt from the recent past. These lessons are clearly articulated by the AER in the State of the Energy Market report 2021[5]:

"A 67% increase in the value of the RAB from 2006 to 2014 – caused by surging investment – was a key contributor to the increase in revenue." and *"consumers will continue to pay for the overinvestment in network assets from 2006 to 2013 for the remainder of the economic lives of those assets, which may be up to 50 years".*

[4] AER Ring-fencing review – Call for Input
[5] AER State of the energy market 2021

1.3. Evie supports Nexa's Rule Change Request and proposed allocation between the NER and guidelines

Evie supports establishing the minimum purpose and content of distribution ring-fencing in the NER, as proposed by Nexa Advisory. This should include protections against cross-subsidisation and preferential treatment, equivalent access to monopoly information and facilities, minimum affiliate-separation and branding requirements, genuine last-resort tests for waivers, and minimum reporting, complaints and enforcement obligations.

Recent experience demonstrates why these core protections should not rest solely in discretionary guidance. Existing obligations have been difficult for market participants to observe and for the AER to test and enforce. Recent waiver processes (discussed below) have also not established a genuine market failure, the necessity of DNSP involvement, measurable long-term consumer benefits or the absence of commercial alternatives.

The AER has long articulated the principle that emerging products and services should ordinarily be provided through contestable markets unless market failure requires regulatory protection. It has also recognised that contestable markets are more likely "...to allocate risk to those best able to manage it and to meet consumer expectations."[6] Ring-fencing is essential to preserving that competitive model where a regulated network or its affiliate seeks to participate in an adjacent market.

This is particularly important for EV charging. Regulated DNSP involvement would socialise capital and utilisation risk across all electricity consumers, including consumers who do not use the infrastructure, while allowing the DNSP to participate in a market where it controls key inputs such as connections, tariffs, pole access and network information. A waiver or regulated-service pathway should therefore only be available where independently verified evidence establishes market failure, additional long-term consumer benefit, no less restrictive alternative and no material harm to competition or private investment.

Elevating these minimum principles into the NER would promote consistent decision-making across DNSPs and prevent core competitive protections from being progressively weakened through case-specific waivers.

[6] AER, Energy market disruption - the implications for a regulator - Speech by AER Chair Paula Conboy at the 2015 Energy Networks Association Regulation Seminar in Brisbane

2. Additional issues

Q2: Have we accurately reflected the concerns raised by stakeholders regarding the guideline? Are there additional issues that should be considered as part of this review?

2.1. Ring-fencing must correct, not entrench, misaligned incentives

Ring-fencing exists because DNSPs and their affiliates sit on both sides of a relationship they should not control. CPOs, community battery operators and other competitive service providers are, in every relevant respect, customers of the regulated network: they buy connections, pole access and network data from the DNSP in order to compete downstream. The growth in waiver applications and rule change proposals reflects a monopoly business increasingly seeking to compete with its own customers, rather than to serve them well.

This is the wrong direction of travel. A DNSP that earns a fair return on regulated assets by connecting and enabling competitors has no need to also own the downstream service. Where a DNSP instead seeks to participate directly, through a waiver, a class waiver or a rule change, it is asking the AER or the AEMC to let it compete with the businesses that depend on it for essential inputs. The guidelines should be reviewed with this asymmetry squarely in view: incentives that reward DNSPs for expanding into competitive markets, rather than for serving them well, will keep generating waiver and rule change activity regardless of how the tests are worded.

Recent cases demonstrate that the current framework has not provided adequate protection against the risks arising when DNSPs participate in contestable activities. With the exception of the confirmed Evoenergy breach discussed below, those cases do not necessarily establish proven breaches of the existing guideline. But even short of a finding of breach, they show that the framework provides insufficient visibility to determine whether equivalent treatment, functional separation, cost allocation and waiver conditions are operating as intended.

The AER's Call for Input records a substantial increase in waiver activity, with 47 applications or related waiver matters assessed between 2022 and 2025, and identifies stakeholder concerns about the growing use of waivers to facilitate DNSP participation in emerging and adjacent markets.

Across recent processes, independent CPOs and other parties seeking to invest and connect have repeatedly identified the same challenges: high or opaque facility access charges, restricted access to pole and network information, prolonged connection processes, staff and information overlap, asymmetric public funding and the prospect of preferential treatment for DNSP-backed projects.

2.2. The review understates the importance of private investment required to support the energy transition

The energy transition requires $4-5bn in investment in EV public charging infrastructure alone[7]. This level of funding cannot come for consumers and government. Private investment is therefore essential for the success of Australia's energy transition.

The importance of private investment cannot be overstated, however the ring-fencing review makes only brief mention of private investment. Capital is mobile. Evie's experience in the market is that every investor and financier active in, or considering, Australian EV charging already prices in the risk that a regulated monopoly will be granted access to compete in the same market whose essential inputs it controls. Sustained uncertainty over that boundary will not just slow investment – it will redirect it to jurisdictions and sectors where the rules are clear.

2.3. Waiver assessment criteria fails to protect the long term interests of consumers

The long term interests of consumers are best served by a thriving competitive market. However, the AER's assessment of waiver requests has often involved limited or no testing of the following issues, even when raised by stakeholders through consultation:

- Is the data being presented by DNSPs accurate and relevant?
- Is there a genuine failure of the market to deliver services, relative to the current market size?
- Where a waiver request is seeking to deploy infrastructure due to a claimed market failure, has the DNSP sought to genuinely address known issues e.g., network data transparency, connection time and cost?
- Is the waiver even required? Have alternatives, such partnership with industry, or trials operated through the DNSP's unregulated business unit, been considered? Waivers should only be granted as a last resort.

In assessing a waiver, the AER must consider the NEO, the potential for cross-subsidisation and discrimination, and whether the consumer benefits of compliance - including the benefits of increased competition - are outweighed by the DNSP's compliance costs.[8] Compliance costs are therefore only one element of the assessment and should not be used by DNSPs or the AER as a reason not to undertake rigorous testing for market failure, less restrictive alternatives and the longer-term effects on competition and consumers.

[7] Legislative Council Economy and Infrastructure Committee, Inquiry into Electricity Supply for Electric Vehicles - Public Hearing Transcript, 26 February 2026, p. 4, evidence of Bernhard Conoplia, Evie Networks.

[8] Australian Energy Regulator, Ring-fencing Guideline: Electricity Distribution, version 4, February 2025, cl 5.3.2(a), p 17.

Furthermore, waiver assessments do not consider the weight of responses. In each of the waiver requests that Evie has consulted, the vast majority of responses have been opposed to the waiver request. The majority of support for waivers comes from networks themselves. What consideration does the AER apply when there is overwhelming opposition to waiver requests?

3. Evidence from recent cases

Q3: Are there relevant experiences, case studies, examples or evidence that would help illustrate these issues or inform this review?

3.1. CitiPower, Powercor, United Energy waiver

The CitiPower, Powercor and United Energy (CPU) waiver process illustrates the availability of less restrictive alternatives to DNSP-led deployment and the need for greater scrutiny in granting waivers and monitoring ongoing performance.

CPU's proposal evolved through several stages, including an initial application in December 2024, supplementary material, further operating model information following the May 2025 workshops, and a response to the AER's consultation. The AER ultimately granted a waiver until 30 June 2031 for up to 100 chargers, subject to nine conditions.[9]

The CPU waiver permitted CitiPower, Powercor and United Energy to deploy 100 kerbside AC chargers and use staff from the regulated business for a trial running to 2031. Evie submitted that the waiver was unnecessary because the stated learning objectives - tariff response and demand management - could be tested with existing CPOs without DNSP ownership.[10] Evie expressly offered to partner with CPU to achieve the stated objectives of such a trial while maintaining existing ring-fencing protections.

Stakeholders also raised the structural risk that CPU could control the network information, pole access, connection process and access charges applicable to competitors while deploying its own infrastructure. The AER responded with nine conditions directed at competitive neutrality, transparency and trial accountability, including requirements for CPU to:

- charge its trial the median annual pole-access fee charged to unrelated third-party charging operators;
- negotiate third-party access in good faith;

[9] AER, Reasons for decision – CPU ring-fencing waiver for EV charging infrastructure, 22 October 2025
[10] Evie Networks, Submission to CPU ring-fencing waiver, 13 June 2025

- publish access procedures, standard terms and cost-justified charges for the period before the 2026–31 regulatory reset;
- transparently market-test the selection of e-MSP partners
- exclude sites already subject to a third-party connection request;
- maintain a public site register; and
- at the end of the waiver, seek further approval, transfer the operating infrastructure to contestable providers or remove it.

These conditions were necessary because the waiver did not, without additional safeguards, provide sufficient assurance that CPU's trial and competing CPO projects would receive equivalent treatment or that the trial's costs, performance and market impacts would be sufficiently transparent.

Following the AER's decision to grant the CPU waiver, Evie and other CPOs have continued to engage with the AER on its implementation and the effectiveness of the imposed safeguards, including verbally at the AER's Review of the Ring-fencing Guideline and Shared Asset Guideline workshop on 21 July 2026. Participants reported examples of CPU trial assets being connected differently from third-party projects, including on poles that CPOs had previously been advised were unsuitable, and raised concerns about staff involved in the trial also having responsibilities for network tariffs or connections. These implementation concerns sit alongside the facility-access pricing issues raised during the waiver process.

3.2. Commonwealth Accelerating Electric Vehicle Charging Program

The Commonwealth's $40 million *AEVC* Program is intended to support approximately 14,000 chargers. Under the proposed model, DNSPs would identify sites and undertake connection works; CPOs would receive a first right of refusal at metropolitan kerbside sites; DNSPs could act as provider of last resort; and the Commonwealth would fund 30 per cent of approved expenditure, with the remaining approved costs potentially recovered through regulated arrangements.

A first-right-of-refusal process is not a reliable test of commercial interest unless CPOs receive:

- complete information on the site, pole, network capacity and expected connection requirements;
- transparent and equivalent access and connection charges;
- sufficient time to assess driver demand and site viability;
- a realistic opportunity to negotiate council, planning and parking arrangements; and
- sufficient time to obtain internal capital approval.

A CPO that accepts a site must fund the charger and bear ongoing utilisation, operating, technology and customer-service risk. A DNSP entering as provider of last resort with government funding and regulated cost recovery would not face the same commercial discipline. Failure by a CPO to accept a site within a compressed program timetable cannot therefore be treated, without more, as evidence that the site is uncommercial or that the competitive market has failed.

Evie understands, from direct discussions with DCCEEW program staff, that CPOs are typically given only around six months under the program to establish site viability, negotiate council and parking arrangements, and secure the necessary approvals. Where a CPO cannot meet that timetable, the DNSP may deploy a charger on the same site using program funding, without the shared asset cost obligations that would ordinarily apply to a regulated asset used to earn revenue outside its regulated function. This is a funding and timing asymmetry, not evidence of a competitive market failing to respond.

The proposal also risks creating the market failure it claims to address. A DNSP would influence whether, when and at what cost a CPO can connect, while retaining the ability to deploy competing infrastructure with public and potentially regulated funding.

Government programs such as the Commonwealth's *AEVC* Program are also exposing weaknesses in the existing service-classification and cost-allocation framework. The program combines charger assets, connection works, site selection, regulated staff and maintenance. However, the classification and recovery pathway for these costs remains unclear and may vary depending on project structure, regulatory timing and AER or DNSP discretion, as highlighted at the AER's 21 July 2026 workshop.

3.3. Essential Energy Plug and Play waiver

Essential Energy's Plug and Play trial was expressly framed to compare CPO-led deployment enabled across approximately 1,000 poles under Stream 1 with DNSP-led deployment of approximately 300 in-asset chargers under Stream 2.[11]

Evie argued that the streams do not provide a neutral comparison between competitive and DNSP-led deployment. Stream 2 is supported by ARENA grant funding to Essential Energy; Stream 1 receives no equivalent funding for CPOs. Under Stream 1, a CPO must invest its own capital and bears the direct consequences of poor site selection and low utilisation. Under Stream 2, ARENA-funded DNSP assets can be installed without equivalent exposure to customer demand and investment risk. A greater number of installations under Stream 2, or limited CPO participation in Stream 1, would therefore say little about the relative efficiency of DNSP and competitive delivery unless funding, location quality, connection terms and performance obligations are made comparable.

Evie has previously recommended CPO-led or co-led site selection, transparent market testing, utilisation and driver-benefit measures, no direct or indirect regulated cross-subsidy, no later RAB inclusion and a clear transfer, sale or removal pathway. These are necessary conditions to ensure that a publicly supported trial does not subsequently become evidence for an enduring DNSP role on the basis of an inherently asymmetric comparison.

---

[11] Essential Energy, Plug and Play, Essential Engagement, accessed August 2026

3.4. Community batteries for Household Solar class waiver

The Community Batteries for Household Solar class waiver and individual battery waivers allow DNSPs to lease excess battery capacity to third parties for contestable services while reserving capacity for network support.[12] The AER states that DNSPs provide some operational data under these waiver conditions. The Call for Input reports that, of approximately 265 MWh of battery capacity approved through waivers, around 39 MWh had been energised in 2024. It also reports approximately 104 MWh of network-support use and 11,463 MWh of use by leasing partners - around one per cent and 99 per cent respectively.

However, these figures are not referenced or disaggregated by DNSP, waiver, battery or reporting period. The document does not explain how the data was compiled, whether definitions and reporting periods are consistent, or where the underlying reports can be accessed. It is therefore unclear whether this information is maintained in a central, readily usable asset-level dataset available to the AER and relevant DNSPs, or was assembled manually from separate waiver reports. Consumers and market participants cannot verify the aggregate figures, identify which assets are operating as forecast or assess whether the expected regulated consumer benefits are being realised.

The fact that the only consolidated information is not referenced, independently verifiable or current (as it relates to 2024) highlights the shortcomings of current DNSP waiver reporting. Reporting should provide timely, standardised and publicly accessible asset-level data capable of testing whether waiver conditions, forecast service allocations and expected consumer benefits are being delivered.

This reflects a broader concern that under the existing compliance framework, DNSPs must prepare annual compliance reports identifying their own breaches and notify the AER within 15 business days of becoming aware of a breach. Although the annual reports are independently assessed and the AER retains investigation and enforcement powers, the framework still relies substantially on DNSPs detecting, characterising and reporting their own non-compliance.

The AER should therefore strengthen both ongoing waiver reporting and the evidence required before waivers are granted, including through more rigorous and transparent testing of any claimed market failure, available less-restrictive alternatives and expected consumer benefits.

---

[12] AER, Decision – Distribution ring-fencing class waiver for DNSP-led projects funded under the Australian Government's Community Batteries for Household Solar Program, February 2023

3.5. Ausgrid branding and cross-promotion concerns

The deployment of PLUS ES pole-mounted EV chargers in Ausgrid's network area illustrates uncertainty in the application and enforcement of the guideline's branding requirements.

Ausgrid branding has been prominently displayed on meter boxes immediately above PLUS ES chargers. Ausgrid has argued that its logo is technically located on the meter box rather than the charger and is intended to promote awareness of Ausgrid's role in facilitating electrification, not to suggest that Ausgrid installed the charger or meter box.[13] This distinction is unlikely to be apparent to an ordinary EV driver viewing the installation as a whole. Prominent Ausgrid branding immediately adjacent to a PLUS ES charger may reasonably imply that Ausgrid delivered, endorses or is commercially associated with the charging service.

This concern is not displaced by the PLUS ES trial waiver, which modified specified metering requirements only and did not alter Ausgrid's ring-fencing obligations, including its branding and cross-promotion obligations.[14]

Ausgrid has also presented itself as the EVCI service provider in news articles, including on ABC News[15] and Drive.com.au.[16]

Evie does not ask the AER to assume that the branding constitutes a breach without assessment. However, the absence of a clear public compliance finding or reporting outcome leaves market participants uncertain about how this ring-fencing obligation applies in practice.

3.6. Evoenergy compliance breach

The Evoenergy matter is a confirmed breach, not merely a visibility concern. Evoenergy self-reported in May 2023 that it had provided contestable maintenance, operation and inspection services to a customer since January 2018, in breach of the legal separation requirements in the guideline. The AER accepted a court enforceable undertaking in response.[17]

The breach ran for around five years before it was identified, and it was Evoenergy that identified and reported it, not a compliance process designed to detect it. This is a practical illustration of the reporting gap this submission raises elsewhere: a framework that relies on DNSPs to detect and self-report their own non-compliance can leave a breach live for years before the AER or the market becomes aware of it.

---

[13] Ausgrid, Answers to questions on notice and supplementary questions, NSW Legislative Assembly Committee on Transport and Infrastructure, 21 November 2025
[14] AER, PLUS ES trial waiver: Final Decision, March 2025
[15] Is power pole charging the future of EVs? | ABC NEWS
[16] The Electrical Grid of the Future with Ausgrid | Drive TV
[17] AER, AER accepts court enforceable undertaking from Evoenergy for ring-fencing breaches, June 2024

4. Required reforms

Q2: Have we accurately reflected the concerns raised by stakeholders regarding the guideline? Are there additional issues that should be considered as part of this review?

Q4: Do you consider the scope of this review to be appropriate? Are there additional areas of focus that you should believe should be included?

4.1. Related electricity service providers and functional separation

The Call for Input and discussion at the 21 July workshop identified limited visibility of unregulated services and the practical difficulty demonstrating and enforcing separation where RESP activities are embedded within the DNSP.

This uncertainty means that competitive providers cannot readily determine whether an internal RESP or affiliate has equivalent access to regulated staff, systems, information, assets and decision-making processes. Where these distinctions are not clearly upheld, competitive providers and investors face the risk that a DNSP-backed provider may receive advantages that are unavailable to independent competitors.

In Evie's view, this is not a drafting problem that better disclosure can fix – it is a structural limitation of the internal RESP model itself. The AER's own workshop materials record that shared staffing arrangements make it extremely difficult to maintain meaningful information separation, because individuals cannot realistically separate information obtained in one role from decisions made in another[18]. Governance policies that attempt to separate selected functions by policy, while leaving the activity inside the monopoly entity, cannot fully cure that structural proximity. The guideline should therefore prohibit the internal RESP model for market-facing, customer-facing competitive services such as EV charging: any activity in which a DNSP-related entity competes directly with third parties for retail or commercial customers should be required to sit in a legally separate entity, with its own governance, systems, financing, staff and premises. This would not disturb negotiated or technical services that are genuinely inseparable from the DNSP's regulated network functions, such as the connection approval and energisation roles discussed below, which raise a different, access-based set of issues.

Clear and enforceable separation is therefore essential to investment confidence. Unless the boundary between regulated and contestable activities is made visible and consistently maintained, uncertainty over preferential access, cross-resourcing and

[18] AER, Workshop summary of stakeholder feedback – Government and consumers, Review of the Ring-fencing Guideline (electricity distribution) and Shared Asset Guideline, 22 July 2026, p.3.

cost allocation will discourage private investment and weaken the development of competitive markets.

A related concern arises for negotiated distribution services. Classification as a negotiated service does not create equal bargaining power where the DNSP controls the only relevant network, pole or access pathway and may also support an affiliated competitor. Without transparent terms, pricing methodologies, response timeframes and effective dispute resolution, negotiation itself can become a source of preferential treatment and investment uncertainty.

This also applies to the NSW Accredited Service Provider framework, where third parties can undertake elements of connection design and construction while the DNSP retains approval, inspection and energisation functions. However, since DNSP affiliates may also compete for this work, there is a risk that without enforceable separation they receive preferential access to regulated staff, systems, information, work pipelines or approvals, undermining confidence that contestable connection services are provided on equivalent terms.

4.2. Staff, information and branding controls must be observable

Functional separation must be capable of being tested in practice. Staff working on a DNSP-backed competitive project should not also determine a competitor's connection, facility access, tariff assignment or technical approval. Stakeholders have raised concerns, including at the AER's 21 July workshop, about overlap between EV charging trial teams and network connection or tariff functions, yet such arrangements are difficult to identify through current compliance reporting.

Cross-resourcing creates particular enforcement difficulty because formal separation may not reveal how staff, information and decisions are shared in practice. Current reporting occurs through staff registers and annual compliance reports, but generally provides only broad role descriptions, applicable exemptions and descriptions of internal controls. It does not readily show which staff supported a particular DNSP-backed project, what information they accessed or whether they influenced connection, tariff or approval decisions affecting competitors. The guideline should therefore require more transparent and auditable project-level reporting where regulated staff or resources support contestable activities.

Network capacity, pole suitability and technical information made available internally to a DNSP-backed project should be provided to independent providers at the same time and on equivalent terms. Evie has previously sought conditions requiring transparent and equivalent access to this information, together with evidence that DNSP-backed sites do not receive preferential treatment in site selection, connection costs or deployment timeframes.

As discussed above in relation to Ausgrid and PLUS ES, branding should be assessed by the overall impression conveyed to an ordinary customer. The guideline should distinguish necessary safety or asset-identification labels from prominent corporate branding that implies DNSP endorsement of an affiliate's contestable service.

4.3. Waivers must be genuine last resort

Recent waiver processes demonstrate the need for a clearer and more demanding evidentiary threshold. Applicants have not always established a genuine market failure, demonstrated that DNSP involvement is necessary or properly tested less restrictive alternatives. In the Essential Energy process, for example, the proposed comparison risked treating limited CPO uptake at DNSP-selected, unsupported sites as evidence of market failure despite materially different funding, site-selection and utilisation risks across the two trial streams.

The evidentiary threshold for establishing market failure should be high. That is not a reason to dilute the test or accept assertion in place of evidence. The long-term benefits of competitive delivery - including innovation, efficient risk allocation, private investment and customer choice - are likely to outweigh the administrative cost of requiring a DNSP to substantiate why monopoly involvement is necessary.

Waiver applications are initiated at the discretion of DNSPs. The cost of developing and pursuing discretionary trials, or of producing the evidence needed to justify them, should not be shifted to consumers or relied upon as a reason to grant a waiver on a lower evidentiary standard. A DNSP seeking relief from core competitive protections should bear the burden of demonstrating that the waiver is necessary and in consumers' long-term interests.

Current processes also place a substantial burden on the AER and stakeholders to identify and correct incomplete, selective or poorly matched evidence through repeated consultation. The AER should prescribe the minimum evidence required with an application and require applicants to substantiate - rather than merely assert - why regulated monopoly involvement is necessary. Absence of local deployment, headline market statistics or overseas examples drawn from materially different regulatory settings should not be sufficient.

A waiver should only be available where the applicant establishes:

- a clearly defined, geographically and temporally specific market failure, independently verified and distinguished from normal early-stage market development;
- measurable and additional long-term consumer benefits against a credible counterfactual;
- that no less restrictive alternative is available, including through partnership with existing competitive providers, competitive procurement, targeted funding, council-led delivery, or connection, tariff and facility access reform;
- no material harm to competition or investment, including foreclosure, concentration or reduced access to private capital;
- no direct or indirect regulated cross-subsidy or double recovery through grants and regulated charges; and

- a narrow scope, fixed sunset, independent audit, mid-term review and credible exit plan.

Claims that the market is not providing a service must also identify the cause. An absence of deployment may reflect low demand, poor site selection, connection cost or delay, unsuitable tariffs, limited network information, planning constraints or a lack of targeted co-funding. Each requires a different remedy and none, without further evidence, establishes that DNSP ownership is necessary.

4.4. Compliance, reporting and enforcement

The current consultation has exposed a significant weakness in the existing framework. Concerns about waiver compliance, staff overlap, preferential treatment and cost allocation are emerging largely through anecdotal evidence from stakeholders rather than systematic regulatory monitoring. The AER's willingness to receive this evidence as part of this Review is appropriate, but reliance on market participants to identify and substantiate potential problems indicates that existing reporting and enforcement arrangements are not providing sufficient visibility.

Current DNSP self-reporting is often too high-level to show how ring-fencing obligations operate in practice or whether waiver conditions are being met. This limits the ability of competitors, consumers and the AER to identify emerging issues, compare treatment and assess whether expected consumer benefits are being delivered.

This is compounded by a structural conflict of interest in the current assurance model: DNSPs currently select and engage the assurance providers who review their own ring-fencing compliance. The 2024 assessments published by the AER show Ausgrid[19], CitiPower and Powercor[20], SA Power Networks[21], Jemena[22], Essential Energy[23] and other DNSPs directly engaging their respective assurance providers. These assessments commonly rely on sample testing and management-provided information, and acknowledge "inherent limitations" that material non-compliance or deficiencies may remain undetected. As such, some expressly do not provide a conclusion on the effectiveness of the DNSP's internal controls.

Self-reporting on this basis cannot give competitors, consumers or the AER confidence that obligations are being met in substance rather than on paper. Assurance and audit functions supporting ring-fencing and waiver compliance reporting should instead be independent of the DNSP being assessed – appointed or approved by the AER, working

[19] PricewaterhouseCoopers, Ausgrid Ring-fencing Compliance Report: For the period ended 31 December 2024, 28 April 2025
[20] Deloitte Touche Tohmatsu, CitiPower Pty Ltd and Powercor Australia Ltd Ring-fencing Guideline Compliance Report: 31 December 2024, 29 April 2025
[21] Deloitte Touche Tohmatsu, SA Power Networks Ring-fencing Guideline Compliance Report: For the period ended 31 December 2024, 30 April 2025
[22] KPMG, Independent Reasonable Assurance Report to the Directors of Jemena Electricity Networks (Vic) Ltd, 29 April 2025
[23] KPMG, Independent Reasonable Assurance Report to the Directors of Essential Energy, 29 April 2025

to a standard scope set by the AER, and testing underlying transactions and information access rather than reviewing policies alone. Findings should be published in a form that allows competitors and consumers to assess compliance for themselves.

The AER should therefore strengthen both DNSP reporting and its own active monitoring, with more standardised, project-level and publicly accessible information on waiver performance, cross-resourcing, cost allocation, equivalent treatment, complaints and breaches. It should also publish clear findings and take timely enforcement action where concerns are substantiated, rather than relying primarily on stakeholders to bring potential non-compliance to light.

4.5. Shared asset allocations

Evie does not have a strong view on the detailed calibration of the Shared Asset Guideline. However, Evie understands that the current framework was designed principally for relatively static secondary uses of regulated assets and may be less suited to dynamic multi-service assets, such as community batteries, whose regulated and contestable use and revenues can change materially over time.

The AER should consider requiring forecast allocations to be reconciled with actual asset use and revenues at each regulatory reset and following any material change. It should also examine whether the one per cent materiality threshold and ten per cent sharing ratio continue to deliver meaningful consumer benefits in emerging markets, such as EV charging.

5. Conclusion

Evie welcomes the review and supports stronger, clearer and more enforceable Ring-fencing and Shared Asset Guidelines.

Recent waivers and government-funded projects have highlighted that the current framework does not consistently provide enough visibility to verify equivalent treatment, functional separation, sound cost allocation or delivery of promised consumer benefits.

The AER should strengthen the Guidelines now, including their enforcement, compliance and reporting requirements, recognising the material risk to investor confidence if ring-fencing protections are not demonstrably upheld.

It should also support Nexa Advisory's proposed minimum protections in the NER and formally reassess both Guidelines if the ENRR changes the underlying service-classification boundary.

Evie recommends that the AER, through this review:

1. Elevate minimum ring-fencing protections into the National Electricity Rules, as proposed by Nexa Advisory, rather than leaving core competitive protections to discretionary guidance.

2. Prohibit the internal RESP model for market-facing, customer-facing competitive services such as EV charging, requiring these to be conducted through a legally separate entity rather than relying on internal policies to separate staff, systems and information within the regulated business.
3. Require any DNSP waiver application to establish, with independently verified evidence: a clearly defined market failure, measurable long-term consumer benefit, no less restrictive alternative, and no material harm to competition or private investment.
4. Attach a narrow scope, fixed sunset, independent audit, mid-term review and credible exit plan to every waiver granted, and treat waivers as a genuine last resort rather than a default pathway.
5. Strengthen DNSP reporting to be standardised, project-level and publicly accessible, covering waiver performance, cross-resourcing, cost allocation, equivalent treatment, complaints and breaches.
6. Require that assurance and audit functions supporting ring-fencing and waiver compliance reporting are independent of the DNSP being assessed and are appointed or approved by the AER, rather than self-commissioned by the regulated business.
7. Increase the AER's own active monitoring and enforcement of ring-fencing obligations, publishing findings and taking timely action rather than relying primarily on stakeholders to surface non-compliance.
8. Clarify that branding and cross-promotion obligations are assessed by the overall impression conveyed to an ordinary customer, not by the technical location of a logo or asset label.
9. Require shared asset allocations to be reconciled with actual asset use and revenue at each regulatory reset, and review whether the current materiality threshold and sharing ratio remain fit for dynamic multi-service assets such as batteries and EV charging infrastructure.
10. Avoid guideline amendments that presume a particular outcome of the AEMC's Electricity Network Regulation Review, and commit to formally reopening or reassessing both Guidelines if that review changes the underlying service-classification boundary.