

Infrastructure Safeguard Policy Paper: Consultation submission form

This form is to be used to provide feedback on a series of questions included in the [Infrastructure Safeguard Policy Paper](#) to help inform the development of the regulations. The Infrastructure Safeguard Policy Paper considers detailed policy options to support Part 6 of the *Electricity Infrastructure Investment Act 2020* (NSW) (EII Act).

Please see the [Electricity Infrastructure Roadmap webpage](#) for more information.

Consultation questions

You do not need to answer every question. Please answer the questions of interest to you.

Chapter numbers indicate the location of questions in the policy Paper.

Please make your submission by **5pm on Wednesday 27 October** to Electricity.Roadmap@dpie.nsw.gov.au.

Confidentiality and submissions

Providing submissions is entirely voluntary, is not assessable, and does not in any way include, exclude, advance or diminish any entity from any future procurement or competitive process regarding the Electricity Infrastructure Roadmap, or any other NSW programs.

All submissions will be made publicly available unless the stakeholder advises the Department not to publish all or part of its submission. Authors may elect for some or all of their submission to be kept confidential. If you wish for your submission to remain confidential please clearly state this in your submission.

Your details

Submission type	<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Organisation <input type="checkbox"/> Other Click or tap here to enter text.
Author name	Andrew Richards
Organisation	Energy Users Association of Australia
Author title	CEO
Phone	
Email	
Stakeholder group	<input type="checkbox"/> Generation or storage infrastructure provider <input checked="" type="checkbox"/> Electricity consumer or representative body

	<input type="checkbox"/> Network infrastructure provider <input type="checkbox"/> Energy retailer <input type="checkbox"/> Government or market institution <input type="checkbox"/> Individual <input type="checkbox"/> Other (please specify) Click or tap here to enter text.
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Questions

Questions related to the planning for private sector infrastructure investment	
<p>Question 1: What requirements for stakeholder consultation on the Infrastructure Investment Objectives Report should be implemented to ensure the Consumer Trustee's report is informed by the best available information?</p>	<p>We recommend serious consideration of the AEMO ISP Consumer Panel model to apply to the IIO Report ie establishment and funding of an independent group with a mix of skills (technical, commercial, consumer engagement) that would engage with the Consumer Trustee during development of the IIO and prepare and publish independent reports at key milestones. This Consumer Panel would complement extensive BAU consumer engagement processes by the Consumer Trustee (more comment on this below). The ISP Consumer Panel's submission on the Final IASR provides significant guidance on what a comprehensive stakeholder consultation process should involve – and what improvements should be made to the AEMO process. We commend those recommendations as providing a comprehensive guide to what should happen with the IIO:</p> <p>https://aemo.com.au/energy-systems/major-publications/integrated-system-plan-isp/2022-integrated-system-plan-isp/get-involved/consumer-panel</p>
<p>Question 2: How should changes in technology, consumer behaviours, customer investment in generation (e.g. distributed energy resources) and demand uncertainty be treated to determine the requirements for large-scale infrastructure investment?</p>	<p>The process used by AEMO for development of the ISP offers a useful precedent. This would involve (1) Guidelines form the Regulator on how the IIO is to be undertaken (simlär to the AER CBA and Best Forecastign Practice Guidelines for the ISP) (2) publication of draft IASR and Methodology documents for consultation leading to publication of final versions that would drive the IIO modelling. There would need to be close liaison with AEMO's ISP processes to ensure consistency of assumptions and approach. (3) publication of a Draft IIO for stakeholder engagement over a reasonable period of time (4) publication of a</p>

	report by the Consumer Trustee on how it has taken stakeholder submissions into account in finalising the IASR and Methodology reports (4) publication of a Transparency Report by the Regulator to assess how the Consumer Trustee has performed against the guidelines.
Question 3: What assumptions, scenarios or approaches could be prescribed by regulation to encourage an independent Consumer Trustee to make appropriate decisions regarding the treatment of future risks and uncertainties in planning for infrastructure investment?	We support a scenarios based modelling approach and there are benefits in having consistency between the ISP and Roadmap scenarios. The plethora of energy future studies being published, each with a different range of scenarios, makes it very confusing and difficult for consumers to appropriately engage.
Questions related to policy considerations for LTES Agreements	
Question 4: What role could demand response play as 'firming infrastructure' under the EII Act and are any special considerations required in LTES Agreement design?	We support the ability of demand response to bid for firming services LTES Agreement. While conditions will apply on the level, frequency and duration of an demand response the risks around this will be taken into account in the assessment of any bids.
Question 5: Other than those prescribed in the EII Act, are further LTES Agreement design principles required to support spot, contract and system service market operation and greater consistency across jurisdictional schemes and, more broadly, innovation over time?	Two key factors in LTES Agreement design is that consumers do not take negative pool price risk and do not take marginal loss factor risk.
Questions related to tendering for and recommending LTES Agreements and Access Rights	
Question 6: What do you think is important to include in a regulation to define 'outstanding merit'?	Consideration should be given to the inclusion of community batteries. The development work being undertaken by Ausgrid suggests these may have a significant role to play.
Question 7: Are there further matters that should be considered when setting and using REZ access fees?	We remain to be convinced that 'the financial interests of electricity consumers' is consistent with some technologies getting subsidised access fees. General statements are made in the Paper without any detail on specific examples. In the absence of specific examples we like to see efficient pricing of access fees that is technology neutral. If one technology has a benefit over

	another then that will be reflected in their tender proposal.
Questions related to Infrastructure Safeguard Governance and Controls	
Question 8: How should stakeholders be engaged in key processes so as to ensure the ongoing success of the Infrastructure Safeguard according to the objectives of the EII Act?	<p>We are very disappointed at the approach taken in the Paper on consumer engagement. It seems very strange given the many statements in the Paper like the need to ensure 'the lowest cost to consumers', to look after the 'financial interests of consumers' and to 'maximise value to consumers and is aligned to community risk' that the role of consumer engagement seems almost incidental to the Consumer Trustee's activities. For example on p.20 it says "...the Consumer Trustee should only consult to the extent it informs decision-making and affords stakeholders procedural fairness; that is, the principle should be that consultation is meaningful and occurs only where it can enhance decision making." Only poor quality consultation risks not enhancing decision making and it is incumbent on the Consumer Trustee to undertake best practice consumer engagement. To take an example there has been almost no consultation on the first IIO report. How are consumers expected to have any confidence in that report? Consultation on the ISP is not a substitute for consultation on the IIO because the IIO is an input to the ISP. Consumers and their representatives need to be actively involved at every stage of the Consumer Trustee's work programme. This would include (1) the establishment of some form of Consumer Advisory Panel of end user representatives; they would operate under confidentiality arrangements that would allow them appropriate access to LTESA bid and other information to give all consumers confidence about accountability and transparency; they would be appropriately funded for the payment of market base sitting fees to enable input into all aspects of the Consumer Trustee's responsibilities; (2) very clear accountability measures on the Consumer Trustee's performance in consumer engagement that are regularly and transparently reported (3) regular reviews on Consumer Trustee performance by the Regulator as provided under the EII Act (the regulations should set out in some detail the scope and approach to be taken by the Regulator in that review) (4) Consideration of the Board of AEMO Services Limited having at least one consumer representative with input on who that person could be from the Consumer Advisory Panel. When the Paper refers to the Trustee's role as not being to 'appease'</p>

	(p.20) stakeholders this could imply that they are not interested in hearing consumer feedback.
Question 9: Where could the regulations provide guidance to the Consumer Trustee in relation to the Risk Management Framework, to increase transparency and confidence for stakeholders?	While Box 4 says that the Infrastructure Safeguard puts consumers first, we are not convinced. For example, (1) LTESAs seemed to be designed to reduce investor risk so that all the benefits from this shift of risk from investors to consumers are passed on to consumers in the form of a very competitive bidding process. This is a qualitative proposition that has yet to be proved in practice. Indeed the lack of effective competition on LTES Agreement tender process is highlighted as a key risk. (2) for network project authorisation and access fee determination consumers have confidence around the current network regulation (including a binding RoR Guideline) and RiT-T processes used by the AER to ensure only a prudent and efficient level of expenditure is approved – we think that is a model that should be applied by the Consumer Trustee (3) As commented above the process used by AEMO in developing the ISP under AER CBA and Forecasting Best Practice Guidelines also should be applied by the Consumer Trustee.
Question 10: When should the Scheme Financial Vehicle enter hedging contracts?	Click or tap here to enter text.
Question 11: What capabilities will the Consumer Trustee or Financial Trustee need to manage net exposures under hedging contracts and LTES Agreements?	Click or tap here to enter text.
Question 12: What parameters, principles and structures should be regulated to limit net basis risk exposures for consumers?	Click or tap here to enter text.

Supporting information

<p>If you have additional information you would like to provide to support your views, please provide it here.</p> <p>If you have additional documents to provide to support your views, please email it with your submission.</p>	
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Confidentiality and submission publication preferences

Please indicate your publication preferences (select one option only).

☐ **Option 1: Non-confidential submission**

Your submission will be published on the Department's website. Your personal contact information (such as phone number and email address) will be redacted.

☐ **Option 2: Confidential submission**

Your submission will **not** be published on the Department's website. The name of your organisation will be published.

Some confidential submissions **may** be shared with the following entities:

- the Australian Energy Market Operator, Energy Security Board, Australian Energy Market Commission, Australian Energy Regulator, Independent Pricing and Regulatory Tribunal or the Australian Competition and Consumer Commission
- TransGrid, the Clean Energy Finance Corporation or the Australian Renewable Energy Agency or distribution network service providers
- the entities appointed or to be appointed under the EII Act (Consumer Trustee, Financial Trustee, Scheme Financial Vehicle and Regulator).

☐ **Option 3: Anonymous and confidential submission**

Your submission will **not** be published on the Department's website. The name of your organisation will **not** be published.

Your submission will **not** be shared with the with the following entities:

- the Australian Energy Market Operator, Energy Security Board, Australian Energy Market Commission, Australian Energy Regulator, Independent Pricing and Regulatory Tribunal or the Australian Competition and Consumer Commission
- TransGrid, the Clean Energy Finance Corporation or the Australian Renewable Energy Agency or distribution network service providers
- the entities appointed or to be appointed under the EII Act (Consumer Trustee, Financial Trustee, Scheme Financial Vehicle and Regulator).

The Department will redact personal details from submissions made by individuals to protect personal information. In the absence of an explicit declaration to the contrary, the Department will assume that information provided by respondents is not considered intellectual property of the respondent.

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- NSW Government departments, NSW Ministers and Ministers' Offices
- the NSW Ombudsman, Audit Office of NSW or as may be otherwise required for auditing purposes or Parliamentary accountability
- other parties where authorised or required by law to be disclosed.

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We may be required to release the information in your submission in some circumstances, such as under the *Government Information (Public Access) Act 2009*.

Electricity Infrastructure Roadmap

Consultation submission form



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