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	☐ Individual ☒ Organisation ☐ Other Click or tap here to enter text.
Author name	Lawrence Irlam
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Email	[redacted]
Stakeholder group	☒ Generation or storage infrastructure provider ☐ Electricity consumer or representative body

	☐ Network infrastructure provider ☒ Energy retailer ☐ Government or market institution ☐ Individual ☐ Other (please specify) Click or tap here to enter text.

Questions

Questions related to the planning for private sector infrastructure investment	
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?	The timing and process involved in publishing the IIO Report, relative to the ISP, should be given careful consideration. Noting that the IIO Report will reflect some NSW-specific objectives there will be many commonalities, and desirably so, with the ISP. The Department's paper notes that the IIO will be an important input into the ISP, particularly the detailed investment targets set in 10 year tender plans. The ISP's IASR will contain important assumptions and scenarios developed via a thorough consultation process prescribed under the NER. This should be leveraged off rather than duplicated for the IIO. Overall we suggest that any NSW-specific requirements for the IIO be consulted on in terms of clearly identified departures from, or additions to, ISP inputs, assumptions, scenarios and methodologies, in a similar manner as RIT-T assessments use the IASR as a default. It would be critical for the integrity of both the ISP and IIO processes for stakeholders to clearly understand how and why IIO tender pathways might diverge from ISP optimal development paths. The Trustee should be required to transparently explain why departures are justified against specific objects of the EII Act versus the NEO and other NEL/ NER requirements, for example in the promotion of local employment and export opportunities.
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?	As per our response to question 1, we consider that the IIO Report should deal with uncertainty in a manner that is consistent with the ISP, including use of scenarios and input sensitivities, and decision-making in view of both probabilistic and least regret assessments. The same uncertainties identified by the Department, including the proliferation and impact of LTESAs on market outcomes, demand management, electrification and hydrogen development, will equally

	need to be accommodated in AEMO's ISP modelling. There may be additional sources of uncertainty arising from more granular consideration of regional, community, social or cultural impacts. We do not have views on whether these factors warrant specific prescription in regulations and beyond what would generically apply to other variables.
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?	As per prior responses, consistency with the ISP is desirable.
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?	In principle, demand response should be enabled as a critical element of the technology mix and 'firming' considerations could be generically applied. Questions around whether technologies will be available when necessary to ensure reliability or other supply characteristics apply to traditional thermal plant (reflecting challenges around ramping, asset condition and fuel supply) in the same way as demand response needs to be 'dispatchable' over different timeframes and when the system requires it. Beyond this, there may be challenges in striking LTESAs for material increments of demand response even with aggregators in the market. The EII Act requires LTESAs to contain an option to exercise a derivative, to provide for repayments and have prescribed minimum notice periods. These requirements might be less relevant for demand response providers. The Department should also consider whether and how to contract for demand response directly under LTESAs given the scope of its decentralised Peak Demand Reduction Scheme i.e. retailers will be liable to indirectly procure demand response capability equalling 10% of NSW maximum demand by 2030. The 'firming' requirements for this capacity under the PDRS (i.e. during afternoons of summer peak periods only) could be expanded to suit 'anytime' firming that would be required to complement large amounts of non-firm, generation-following LTESA contracts.

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?	The Department's elaboration of the EII Act's LTESA design principles, on pages 10 to 12 of its paper, appears to be reasonable. As discussed further below, principles regarding the use of contract conventions and being consistent with risk management, which work towards enabling the SFV to onsell its position, will be critical in ensuring contract liquidity and a viable retail market. This is not just a relevant consideration for the RRO, where retailer obligations are contingent on AEMO/AER triggers, but for the contract market generally as retailers will need to manage their price risk in a market where the SFV will be dominant. The Department should also consider benchmark contracting requirements under the DMO and other retailer practices regarding the tenor of contracts typically entered into and how this interacts with the SFV's position and exercise of LTESA options. Further guidance could be provided in terms of avoiding unnecessary complexity in LTESA design, which would reduce administrative costs that are ultimately passed onto consumers. Noting that the EII Act requires LTESAs to provide some sort of option, initial tender rounds might reveal that options within LTESAs are unnecessary or provide minimal additional value, particularly where some technology types or services would always or never exercise them. In stakeholder discussions the Department has provided the example of a renewable developer simply seeking an offtake for LGCs rather than needing any price subsidy. Conversely, Department's prior Roadmap modelling suggested storage providers would need revenue subsidies of 20 to 30% over their project life to be commercially viable, hence would always exercise the option to receive a higher subsidised price. In addition to minimising complexity, standardisation of LTESAs would reduce burden for developers with multiple projects as well as the Trustee. In this context, the Department refers to the potential development of principles that would apply nationally for jurisdictional investment schemes. National consistency, particularly where LTESA support mechanisms flow from a coherent and durable policy framework that accommodates cross-jurisdictional issues, would also favour prudent investment by lowering risk and ultimately costs for consumers.
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'?	The general principle behind declaring REZs is that this allows the coordinated development of transmission, generation, storage and system services in a least cost manner, while also exploiting localised economic and other locational opportunities. Noting REZ access regimes are still to be determined, the intention to recover fees from developers inside the REZ to offset various costs is also an important consideration, namely non-REZ developments would not be charged any fees that might reflect costs they impose on the system. One major concern with awarding LTESAs to non-REZ generation investment would be that customers would be fully liable to pay for any associated transmission hosting capacity, hence 'outstanding merit' should include whether the development results in more efficient utilisation of existing network assets. In addition to imposing lower costs relative to within-REZ investment, merit should also cover whether non-REZ generation provides system benefits by exploiting weather or resource diversity (effectively displacing lower utilised or lower value generation from inside REZs). Non-REZ developments may also bid in lower strike prices or provide other 'portfolio' benefits that could form part of a general 'net benefit relative to within-REZ' set of criteria. Net benefit type considerations seem consistent with 'financial value' being the primary consideration in recommending LTESAs under section 48(2) of the EII Act. Irrespective of the specific factors to be considered, there needs to be some clear criteria and transparent evaluation process, idealling covering SFV decisions as well as Trustee recommendations, to provide investment certainty and minimise the influence of any shorter term factors that might arise if left to the complete discretion of the Minister of the day. While there is obviously an imperative in coordinating investment inside REZs, there may be significant interest in non-REZ investment if access rights are not valued by developers or are subject to disproportionately high fees. Further guidance should be provided on the interpretation of "not…part of a renewable energy zone" in section 48(3) of the EII Act, for example how this relates to the boundaries of the generating site, dedicated connection assets, shared transmission assets and the declared REZ boundary.

Question 7: Are there further matters that should be considered when setting and using REZ access fees?	As alluded to above and acknowledged by the Department, the setting of access fees needs to reflect the benefits to developers arising from REZ access rights, cost recovery for consumers and local communities, how different technologies interact inside the REZ, and also power flows from REZ boundaries to regional pricing nodes. Fees need to be set in light of how developers perceive the risks and costs associated with non-REZ investment alternatives, where access fees will not be charged. We note the Department's further consultation on REZ access regimes will cover interactions with national reforms, for example the Congestion Management Model proposed by the ESB, as well as the treatment of existing generators.
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?	The Department has appropriately identified the need for appropriate stakeholder input on key decisions of the Trustee, primarily the IIO Report and tender plans, as these treat complex matters, involve use of judgement in the face of uncertainty and are information intensive. Other elements such as deciding on tender outcomes should not require stakeholder input but transparency in decision making, including in relation to regulatory requirements, will be important. We support the Department's suggestion for periodic reviews of key Safeguard elements, including consultation on the outcomes of the risk management and contracting framework. Specific guidance could be set for the Trustee to consult on its interpretation of key concepts in the EII Act, including 'financial interests of NSW electricity customers' and 'financial value' of LTESAs and access fees. Direct consumer input on how the Trustee will approach tasks associated with these concepts will arguably be necessary but otherwise will instill confidence that the Trustee is genuinely acting on behalf of NSW consumers. The considerations listed in the Department's paper, including maintaining an attractive investment environment and reducing price volatility, appear appropriate however the application of concepts will change over time as the Trustee and stakeholders gain experience in pursuing the various legislative objectives.
Question 9: Where could the regulations provide guidance to the Consumer Trustee in relation to the Risk Management Framework, to increase	We support the Department's position that regulations should prescribe key risks and elements of the risk management framework. In particular the framework should provide an appropriate safeguard for contract market liquidity. This is critical as the SFV will become a

transparency and confidence for stakeholders?	major counterparty to significant volumes of generation and storage and, as the Department is aware, will need to be able to repackage this portfolio into appropriate contracts to ensure contract market liquidity for retailers and other participants. With that said, we have some reservations that future regulations could be introduced to require retailers to contract with the SFV, for example to ensure its liquidity. Ultimately the SFV needs to function in a way that preserves competition in related markets. The Department must also consider the respective role of the Trustee in ensuring an appropriate mix of technologies are operating in the system in order to provide sufficient 'firming' within the portfolio being managed by the SFV. Our expectation is that some renewables developers may be able to agree to fixed shape LTESAs however a material proportion of firming will need to be sourced from storage and other technologies, and this is not something that can be managed in generation LTESA designs or via the risk management framework.
Question 10: When should the Scheme Financial Vehicle enter hedging contracts?	As above our primary consideration is that the SFV should have obligations to offer contracts, with sufficient firmness and in competition with other suppliers, to ensure a properly functioning retail market. The Department should consider the prospects of storage developers (which provide important firming capacity) exercising their options for the entirety of their LTESAs and what impacts this will have on their incentives to participate in contract markets.
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?	We do not support the SFV being limited in basis risk exposure to the extent this would pass on risk to other market participants and potentially result in retailers being unhedged. As noted above the SFV will hold contracts covering the bulk of NSW generation and storage output and ultimately needs to be able to ensure contract demand can be met.

Supporting information

If you have additional information you would like to provide to support your views, please provide it here. If you have additional documents to provide to support your views, please email it with your submission.	

Confidentiality and submission publication preferences

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

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

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- 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).

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