



Australian Government

Department of Climate Change, Energy,  
the Environment and Water

# Capacity Investment Scheme

## Tender 1 - National Electricity Market Generation Guidelines

May 2024



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Capitalised terms are as defined in the Glossary at section 6 of the Tender Guidelines.

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### Disclaimer

The objective of the Tender Process is for the Australian Government to receive offers from persons that are interested in undertaking Projects located in a National Electricity Market jurisdiction and have the capacity, capability and experience to do so. These Tender Guidelines have been prepared to assist those persons interested in submitting a Bid (including Proponents and their Associates) to make their own evaluation of the Capacity Investment Scheme (CIS) and do not purport to contain all the information required to do so.

Subject to [Section 4.1](#), these Tender Guidelines are not (and do not constitute) an offer and are not intended to give rise to any contractual relationship. Proponents, Consortium Members and its or their Associates must conduct (and must rely entirely on) their own independent investigations, reviews, analysis of the Tender Process, Tender Guidelines and the information otherwise provided during the Tender Process, and not on these Tender Guidelines themselves.

Laws applying to the CIS, any Project and/or the Tender Process may be subject to change. Further Laws (not yet made) may apply to the CIS, any Project and/or the Tender Process including after it commences. Proponents are expected to comply with any new or amended Laws throughout the Tender Process, including when amendments to any Laws take effect during the Tender Process. In this Tender 1 Process, such new, amended or replaced Laws could include, for example, changes to the National Electricity Law (NEL) and National Electricity Rules (NER).

These Tender Guidelines and/or the information in them may be subsequently amended, withdrawn, reissued, or supplemented at any time. These Tender Guidelines do not constitute legal or business advice and should not be relied on as a substitute for obtaining detailed advice about the NEL, the NER, or any other applicable Laws, regulatory documents, reports, procedures or policies.

The Australian Government has taken care in the preparation of the information contained or referred to in these Tender Guidelines but cannot guarantee (and makes no representation or warranty regarding) the completeness, accuracy, adequacy or currency of that information or any information communicated or provided during the Tender Process. Accordingly, to the maximum extent permitted by Law, the Australian Government and its Associates involved in the preparation of these Tender Guidelines:

- (a) do not give any warranty or make any representation, express or implied, as to the completeness, accuracy, adequacy or currency of the information contained or referred to in these Tender Guidelines or any information which may be communicated or provided in connection with them or the Tender Process; and
- (b) expressly disclaim any and all Liability relating to or resulting from:
  - i. the use of, or reliance on, such information by any person, a Proponent, or any of their respective Associates, including in the preparation and submission of a Bid (including any decision not to prepare or submit a Bid);
  - ii. any delay in the Australian Government or its Associates providing any such information; and/or
  - iii. the exercise of any discretion, delay to exercising any discretion or the making of any decision, by the Australian Government or its Associates in relation to the Tender Process, including in the assessment of any Bid by a Proponent or its Associates.

### Confidentiality

Other than information regarding the CIS and these Tender Guidelines, in each case publicly disclosed on any Australian Government or AEMO website, all Disclosed Information is confidential information. Proponents, the Consortium Members and its or their Associates are subject to the confidentiality obligations set out in these Tender Guidelines, and are not permitted to disclose or to use any such information other than as permitted by, these Tender Guidelines. By continuing to read these Tender Guidelines, Proponents, Consortium Members and its or their Associates will be taken to have accepted that confidentiality obligation.

### Acknowledgement of Country

Our department recognises the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge Aboriginal and Torres Strait Islander Peoples as the traditional owners, custodians and lore keepers of the world's oldest living culture and pay respects to their Elders past, and present.

# Welcome to the Capacity Investment Scheme Tender 1 – National Electricity Market Generation

These Tender Guidelines (**Tender Guidelines**) are a comprehensive resource containing the necessary information for participating in the Capacity Investment Scheme (**CIS**) Tender 1 – National Electricity Market (**NEM**) Generation (**Tender** or **Tender 1**).

The Australian Government issues the Tender Guidelines to provide information to prospective and actual Proponents, their Consortium Members, and their Associates, who plan to and do participate in the Tender.

## What is the Capacity Investment Scheme Tender 1?

The objective of the CIS is to incentivise the deployment of 32GW of renewable and clean dispatchable capacity by 2030. The CIS is designed to support system reliability as ageing coal power stations retire and to help deliver the Australian Government's target of 82% renewable electricity by 2030. Nationally, the CIS will involve regular competitive tender processes, to be held approximately every six months until 2027, and will seek to deliver a total of 23 gigawatts (**GW**) of renewable capacity and 9 GW of clean dispatchable capacity.

Tender 1 seeks to deliver 6 GW of renewable capacity across the NEM. This will include the following targets in NEM jurisdictions:

NEM Jurisdiction	Minimum capacity target <sup>1</sup> (GW)
New South Wales	2.2*
South Australia	0.3
Victoria	1.4
Tasmania	0.3
Unallocated	1.8
<b>Total capacity target</b>	<b>6.0</b>

\* Supported NSW capacity will be capped at 3.7 GW.

These specific jurisdictional allocations form part of the Australian Government's Renewable Energy Transformation Agreements with State and Territory governments to provide incentives for investment in new renewable energy projects and achieve shared objectives in the transition to renewables dominated electricity generation. The remaining 1.8 GW of renewable capacity may be allocated to projects across the NEM, based on a merit assessment of the projects.

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<sup>1</sup> Subject to the assessed merit of projects.

## What to know for the Tender 1 Process



Key element	Description
<b>Location</b>	Projects in this Tender 1 Process must be located in a participating jurisdiction of the NEM as defined by the National Electricity Law.
<b>Technology type</b>	Projects must generate electricity from a fuel source that is an eligible renewable energy source. Proponents should refer to <a href="#">Eligibility Criteria 10</a> (EC10 in Table 5 below) for information on eligible fuel sources and ineligible technologies.
<b>Commercial Operations Target Date</b>	The Commercial Operations Target Date ( <b>COD Target Date</b> ) is not an Eligibility Criterion and will be merit assessed, see <a href="#">Merit Criterion 2</a> . Projects with a COD Target Date of 31 December 2028 or earlier may be considered of higher merit.
<b>Social Licence commitments</b>	<p>The Australian Government has a strong expectation that, as the energy transition develops, genuine economic and social partnerships will emerge between industry and communities to better support and seize the opportunities of a net-zero economy.</p> <p>Social licence commitments will be assessed against Merit Criteria <a href="#">4</a> and <a href="#">7</a>, and commitments will be made contractually binding in the Capacity Investment Scheme Agreements (<b>CISA</b>) and will be subject to monitoring and enforcement conditions if a Proponent is successful in the Tender 1 Process.</p> <p>Merit Criteria <a href="#">4</a> and <a href="#">7</a> will be weighted 25% each, compared to 20% each for the CIS South Australia-Victoria tender. Projects assessed as having low merit against any individual Merit Criterion (including social licence) may not be further assessed and may not be progressed to the Financial Value Shortlist.</p>
<b>First Nations engagement and benefits</b>	<p>First Nations people are important partners in the clean energy transformation. The Australian Government is committed to meaningful engagement with Aboriginal and Torres Strait Islander peoples to achieve our priorities while contributing to Closing the Gap.</p> <p>First Nations engagement and commitments will be assessed against Merit Criteria <a href="#">4</a> and <a href="#">7</a>, to form contractually binding commitments. The assessment is looking for evidence of respectful and productive engagement with First Nations communities, and for First Nations groups to be afforded genuine social and economic opportunities through Projects supported under the CIS.</p> <p>This includes opportunities for ownership, revenue sharing and energy offtake agreement models for First Nation communities.</p>
<b>Contribution to 82% Target, System Benefits and Reliability</b>	Key objectives of the CIS include supporting Projects that can contribute to achieving the Australian Government's 82% renewable electricity by 2030 target and supporting system reliability in Australia's rapidly changing electricity market. These elements are assessed in <a href="#">Merit Criterion 1</a> and <a href="#">Merit Criterion 5</a> .



## What Proponents bid for – Capacity Investment Scheme Agreements (CISA)

The CISA will be a contract between the Successful Proponent and the Australian Government. The CISA will provide partial revenue support (90%) if a project's revenue falls below an agreed floor. In turn, the CISA will also require projects to pay a percentage of revenue to the Australian Government (50%) if revenue exceeds an agreed ceiling. These payments will be subject to an annual payment cap.







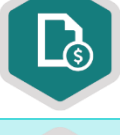

To further understand the Generation CISA and how it can support your Project, Proponents should familiarise themselves with the key commercial terms of the CISA before submitting a Bid. The draft CISA will be available on the AEMO Services website at [aemoservices.com.au](https://aemoservices.com.au).

# What Proponents need to know

Key stages in the Tender 1 Process		
Tender 1 Process Step	Proponent requirements	Assessment
Select the relevant hyperlink to learn more		
 Registration	<p><b>Register to participate in the Tender 1 Process.</b></p> <p>Registrations are now open. To register for the CIS and this Tender 1 Process, <a href="#">complete the registration form</a>. Each Project must be registered separately.</p> <p><b>Proponents may only register and submit one Project Bid per Project.</b> If a Project has multiple potential configurations or designs (such as storage duration or nameplate capacity), it is a matter for the Proponent to select its preferred configuration before registering and submitting a Project Bid. Proponents may submit both an Assessed Hybrid Project Bid (consisting of a generation and storage asset) and a Generation Project Bid but must not submit a Duplicative Bid.</p> <p>If a Proponent submits Project Bids that are considered by AEMO to be a Duplicative Bid, AEMO will accept the Bid that was submitted last. Duplicative Bids submitted earlier will not be accepted and will not be assessed. If Proponents wish to change their Bid, they should notify AEMO via the Online Portal that they wish to withdraw their existing Bid, and then register a replacement Bid before the Registration Closing Date and Time and submit a replacement Project Bid before the Project Bid Closing Date and Time.</p>	
 Stage A Project Bid	<p><b>Submit a completed Project Bid form online along with the required Returnable Schedules and other information necessary to demonstrate satisfaction of each <a href="#">Proponent and Project Eligibility Criteria</a> and <a href="#">Merit Criteria 1 to 4</a>.</b></p> <p><b>Provide executed Process Deed Poll.</b></p> <p><i>Stage A – Project Bid Merit Criteria</i></p> <ul style="list-style-type: none"> <li>• <a href="#">Merit Criterion 1 – Contribution to system reliability and system benefits</a></li> <li>• <a href="#">Merit Criterion 2 – Project deliverability and timetable</a></li> <li>• <a href="#">Merit Criterion 3 – Organisational capability to deliver Project</a></li> <li>• <a href="#">Merit Criterion 4 – First Nations engagement, community engagement and benefits sharing</a></li> </ul> <p>For the avoidance of doubt, Proponents should consider any commitments made under Merit Criterion 4 to be binding under the Project Bid.</p>	<p><b>Project Bid assessment</b></p> <p>Projects are assessed against <a href="#">Eligibility Criteria</a>. Eligible Projects are assessed against <a href="#">Merit Criterion 1 to 4</a> to develop the Project Shortlist.</p>

 <p><b>Stage B</b> <b>Financial Value</b></p>	<p><b>Proponents on the Project Shortlist invited to submit:</b></p> <ul style="list-style-type: none"> <li>• a Default Financial Value Bid and may submit an Alternative Financial Value Bid via an online Financial Value Bid form with corresponding Returnable Schedules.</li> <li>• Project Documents that are in the form of an offer for acceptance by the Australian Government, complete and capable of execution, except for, in the case where the Bid Entity will be a special purpose vehicle, the Bid Entity's details and execution block.</li> </ul> <p><i>Stage B – Financial Value Bid Merit Criteria</i></p> <ul style="list-style-type: none"> <li>• <a href="#">Merit Criterion 5 – Financial value</a></li> <li>• <a href="#">Merit Criterion 6 – Commercial departures</a></li> <li>• <a href="#">Merit Criterion 7 – First Nations and social licence commitments</a></li> </ul> <p>For the avoidance of doubt, Proponents should consider any commitments made under Merit Criterion 7 to be binding under the Default and Alternative Financial Value Bid.</p>	<p><b>Financial Value Bid Assessment</b></p> <p>Default and Alternative Financial Value Bids assessed against <a href="#">Merit Criterion 5 to 7</a> to develop the recommended Financial Value Shortlist.</p>
 <p><b>Stage C</b> <b>Due diligence &amp; Recommended Bids</b></p>	<p>Proponents may be requested to provide additional information, including information identified in <a href="#">Section 5</a>, and the Project Documents may be amended by the Australian Government to reflect issues identified during due diligence.</p> <p>A recommended list of Bids will be provided by AEMO to the Australian Government based on the outcomes of the merit assessment, due diligence and CISA contract negotiations. The Minister for Climate Change and Energy (the <b>Minister</b>), on behalf of the Australian Government, will select the Successful Proponents and Projects to be awarded a CISA.</p>	<p><a href="#">Due diligence</a> on Proponents and/or Projects may be undertaken.</p> <p><a href="#">Recommended Bids</a> are provided to the Australian Government based on the outcomes of the tender assessment process.</p>

## Important Dates

		<b>Registration Opening Date</b> 16 May 2024
1		<b>Stage A – Project Bid Commencement Date</b> 31 May 2024
2		<b>Stage A – Q&amp;A Process opens</b> 31 May 2024
3		<b>Registration Closing Date and Time</b> 19 June 2024 at 5:00 pm AEST
4		<b>Stage A – Project Bid Closing Date and Time</b> 1 July 2024 at 5:00 pm AEST
5		<b>Invitation to submit Stage B – Financial Value Bid</b> August/September 2024*
6		<b>Stage B – Q&amp;A Process opens</b> August / September 2024*
7		<b>Stage B – Financial Value Bid Closing Date and Time</b> September/October 2024*
8		<b>Announce Successful Bids</b> December 2024*

*\*NOTE: These dates are indicative and final dates will be communicated via the Online Portal. The relevant times associated with each of these dates will be provided through those communications.*

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# 1 About the Capacity Investment Scheme (CIS)

## 1.1 About the CIS

The CIS is a national framework and an Australian Government initiative to encourage new investment in renewable capacity, such as wind and solar, and clean dispatchable capacity, for example, battery storage. The CIS aims to support the delivery of a more reliable, affordable, low-emissions energy system for all Australians.

The CIS will be implemented through a series of competitive tenders with the objective of:

- Delivering an additional 32 GW of new capacity by 2030
- Supporting electricity generation growth and reliability in Australia's rapidly changing electricity markets as ageing thermal power stations exit
- Supporting the delivery of the Australian Government's 82% renewable electricity by 2030 target.

This Tender 1 Process is an Australian Government initiative as part of the CIS. The Australian Government promotes the proper (including efficient, effective, economical and ethical) use and management of public resources in accordance with the *Public Governance, Performance and Accountability Act 2013* (Cth). This Tender 1 Process is not a procurement for the purposes of the [Commonwealth Procurement Rules](#) and not a grant for the purposes of the [Commonwealth Grant Rules and Guidelines](#). However, to ensure that the Tender 1 Process is aligned with Australian Government procedures, the Australian Government has specified in these Tender Guidelines (including [Section 5](#)) certain Commonwealth policies and other requirements which will apply to the Tender 1 Process.

## 1.2 Tender governance and decision-making

This Tender 1 Process is being conducted using robust and transparent processes to ensure market trust in the Tender Process.

The Australian Government has engaged AEMO Limited, and its independent subsidiary AEMO Services Limited, (together **AEMO**) as service providers to administer this competitive Tender Process, including to recommend Bids to the Australian Government consistent with these Tender Guidelines. The Australian Government and AEMO may consult throughout the Tender Process, with respect to the Bids progressed during the Tender Process and the Recommended Bids.

Australian Government	AEMO
Sets the Policy Objectives, the objective of the Tender, the commercial in-confidence financial budget, the tender size and the terms of the CISA.	Administers this competitive Tender Process (including communicating with Proponents <sup>2</sup> ).

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<sup>2</sup> Proponents should direct any communications relating to the Tender Process to AEMO in accordance with these Tender Guidelines, and as outlined in [Section 4.39](#).

Australian Government	AEMO
The Minister for Climate Change and Energy (the <b>Minister</b> ), on behalf of the Australian Government, will select the Proponents and Projects to receive revenue support under the CIS, having regard to the recommendation of AEMO.	Make recommendations consistent with these Tender Guidelines to the Australian Government.

The above does not prevent the Australian Government or any other relevant Commonwealth entity from administering, exercising its rights and powers and performing its obligations that exist in relation to the CIS including those set out in these Tender Guidelines. To the extent there is ambiguity, discrepancy or inconsistency between an action or statement of the Australian Government and an action or statement of its service providers, the action or statement of the Australian Government will prevail.

The Australian Government will notify Proponents in writing if AEMO ceases to provide services to administer this Tender 1 Process, or if there are any material changes to the role which the Australian Government in its absolute discretion considers relevant to the Proponents.

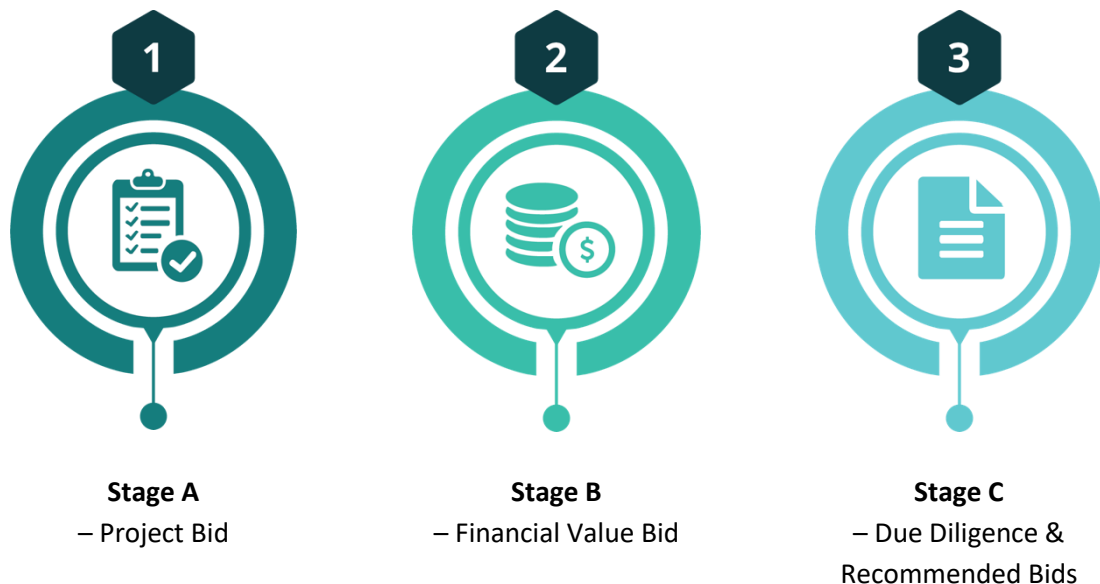
## 2 Tender and assessment process

This section outlines the tender and assessment process that will apply to all Proponents and Projects.

Proponents and Projects participating in this Tender 1 Process are required to demonstrate compliance with the [Eligibility Criteria](#) before they may be competitively assessed against the [Merit Criteria](#).

The Tender Process outlined in these Tender Guidelines may be varied, suspended or cancelled in accordance with the [Tender Conditions](#). Any such decisions will be made at the absolute discretion of the Australian Government or AEMO and communicated to registered Proponents via the [Online Portal](#) and [AEMO's website](#).

An overview of the intended Tender Process is illustrated below.



### 2.1 Tender Process

#### 2.1.1 Registration

Registration is the first step in the Tender Process and must be completed before a Project Bid may be submitted. Proponents will need to create an account via the Online Portal [here](#) to register a Project.

If a Project has multiple potential configurations or designs (such as storage duration or nameplate capacity), it is a matter for the Proponent to select its preferred configuration before registering and submitting a Project Bid. Proponents may submit both an Assessed Hybrid Project Bid (consisting of a generation and storage asset) and a Generation Project Bid but must not submit a Duplicative Bid.

If a Proponent submits Project Bids that are considered by AEMO to be Duplicative Bids, AEMO will accept the Bid that was submitted last. Duplicative Bids submitted earlier will not be accepted and will not be assessed. Accordingly, if Proponents wish to change their Bid, they should notify AEMO

via the Online Portal that they wish to withdraw their existing Bid, and then register a replacement Bid before the Registration Closing Date and Time and submit a replacement Project Bid before the Project Bid Closing Date and Time.

Successfully registered Proponents will be notified via the Online Portal of any changes made to the Tender Process.

Registration commenced on the [Registration Opening Date](#) and will close at the [Registration Closing Date and Time](#).

Changes to the identity or corporate structure of a Proponent following registration will only be accepted if made in accordance with the [Tender Conditions](#). The Australian Government or AEMO may, in their absolute discretion, impose additional requirements for such changes, including the provision of further information or execution of additional process deed polls by any relevant entities.

### **2.1.2 Submission of Bids and documents**

Successfully registered Proponents must submit their Bids in two stages: Stage A – Project Bid and, if invited, Stage B – Financial Value Bid. Bids must be submitted via the Online Portal including the completed Project Bid form, Financial Value Bid form, relevant Returnable Schedules and other specified documents.

Further details on the information and supporting documents required at each Bid stage are provided in this [Section 2](#) and in [Section 3](#).

#### **Process Deed Poll**

Proponents seeking to participate in the Tender must execute a Process Deed Poll in favour of the Australian Government and AEMO. The Process Deed Poll must be provided as a Returnable Schedule and must be executed and submitted with the Proponent's Project Bid in Stage A.

The Process Deed Poll includes, amongst other things:

- a) an acknowledgment that the Proponent accepts and is bound by the Tender Guidelines;
- b) a warranty that the Proponent has, and its Associates have, complied with the Tender Guidelines in respect of its and their participation in the Tender Process; and
- c) a warranty as to the truth and accuracy of the information submitted by the Proponent.

The Australian Government or AEMO may, in their absolute discretion, at any stage of the Tender Process including after Project Bids have been submitted, also require that a Process Deed Poll be submitted by one or more of the Proponent's Consortium Members and/or their Related Bodies Corporate and if requested to do so, the Proponent must procure that the relevant Consortium Member(s) and/or Related Bodies Corporate provide an executed Process Deed Poll to AEMO.

## Q&A Process

An online question-and-answer period (**Q&A Process**) will operate to ensure fair and equitable access to information. Registered Proponents may submit clarification questions to the Online Portal no later than five (5) Business Days before the corresponding:

- Project Bid Closing Date and Time (during Project Bid preparation).
- Financial Value Bid Closing Date and Time (during Financial Value Bid preparation).

The Stage A – Project Bid Q&A Process will commence when the Stage A – Project Bid commences, however, the questions will only be reviewed from **3 June 2024**, with the first responses released thereafter.

Proponents should prepare any questions in a manner that does not disclose sensitive or confidential information. Reasonable endeavours will be made to answer questions within five (5) Business Days after receipt of the relevant question (subject to the number, materiality and complexity of questions received) and to share de-identified questions and clarifications publicly via the [AEMO Services website](#).

Please note, subject to the items below and [Section 4.13](#):

- Responses will be made publicly available via AEMO Services website (without identifying the Proponent that submitted the relevant question) and will be distributed to all registered Proponents via the Online Portal.
- If a Proponent does not wish a question or response to be made publicly available, it must identify the question as ‘Commercially sensitive – not for circulation’, together with an explanation of why the information is Project-specific and sensitive.
- A determination will be made by AEMO as to whether to answer the question and whether to circulate the response or a generic and/or deidentified version of the response, to all actual and prospective Proponents. Probity advice may be sought to guide these decisions.

## Communications

Refer to [Section 4.39](#) of the Tender Conditions for guidance on communications during the Tender Process.

## Late Bids

Project Bids received after the Project Bid Closing Date and Time, or Financial Value Bids received after the Financial Value Bid Closing Date and Time (**Late Bids**) will only be accepted at the absolute discretion of AEMO. For example, Late Bids may be admitted for assessment if:

- actions or omissions by AEMO caused the delay in submission; or
- the Proponent can clearly document to the satisfaction of AEMO that an event of exceptional circumstances caused the Bid to be lodged after the relevant closing date and time and that the integrity of the Tender Process will not be compromised by accepting a Project Bid after the relevant closing date and time.

AEMO is under no obligation to exercise its discretion to accept a Late Bid or to disclose to any Proponent or any of their respective Associates the acceptance of another Proponent's Late Bid(s). AEMO will endeavour to notify a Proponent whether its Late Bid has been accepted within five (5) Business Days from the date of the Late Bid submission.

### **Extensions**

Extensions of time, including in relation to dates and times published in the Tender Process, may be granted at the absolute discretion of AEMO.

### **Obligation to notify of errors**

If, after any Bid has been submitted, the relevant Proponent (or any of its Consortium Members or its or their Associates) become aware of an error in the relevant Bid (including an error in pricing but excluding clerical errors which would have no bearing on the evaluation of the Bid), the Proponent must promptly notify AEMO of such error.

## **2.1.3 Interaction with the New South Wales Roadmap tender processes**

The CIS aims to complement existing state schemes where these are consistent with the objectives of the CIS.

The NSW Electricity Infrastructure Tender Round 5 process for South West (**SW**) Renewable Energy Zone (**REZ**) access rights (**Tender Round 5**) and EnergyCo's process for Central West Orana (**CWO**) REZ access rights are being implemented in parallel with this Tender 1 Process. These processes are being implemented under an existing NSW legislative framework as part of the NSW Electricity Infrastructure Roadmap. Tender Round 5 is run by AEMO Services in its capacity as the NSW Consumer Trustee (Consumer Trustee) pursuant to the *Electricity Infrastructure Investment (EII) Act 2020* (NSW) (**EII Act**). Tender Round 5 will not include a Generation Long-term Energy Service Agreement (LTESA). The CWO REZ access right application process is conducted by EnergyCo in its capacity as the NSW Infrastructure Planner under the EII Act.

Proponents that intend to participate in both NSW and CIS processes should note the following:

- Proponents that are in the process of seeking a SW REZ or CWO REZ access right for their Project, may consider participating in this Tender 1 Process. However, if successful, in both an access right process and this Tender 1 process, they will need to meet consistent milestones in the relevant CWO or SW REZ access right agreements and the CISA respectively. Please refer to the [NSW Tender Round 5 Guidelines](#) for SW REZ and [CWO application process](#) for further information.
- CWO or SW REZ access right holders may also be able to participate in future CIS tender processes. With respect to LTESA tenders, under the EII Regulation (clause 28), to be eligible to participate in a Tender Round for an LTESA, a Proponent:
  - must not have been previously awarded an access right in respect of the Project as a result of a competitive tender conducted by the Consumer Trustee except where the Consumer Trustee is satisfied that there are exceptional circumstances (as specified by the Consumer Trustee); or

- must not have been previously awarded an access right in respect of the Project as a result of a competitive tender conducted other than by the Consumer Trustee; and the Project must not have achieved the finance and construction criteria.


As outlined in the NSW Tender 5 Guidelines, the Consumer Trustee intends to specify that a Project that receives a SW REZ access right through NSW Tender Round 5 will be eligible to bid for future Generation LTESAs up until the achievement of its finance and construction criteria.

Any Project in respect of which a Generation CISA is entered into through this Tender 1 Process that requires an access right to connect to the network will be required to obtain an access right in Tender Round 5 (for SW REZ) or an access rights application process conducted by EnergyCo (for CWO REZ). The sunset date for complying with this requirement in the CISA will be set to align with these processes.

## 2.2 Stage A – Project Bid

From the Stage A – Project Bid Commencement Date, registered Proponents will receive access to the application information needed to complete their Project Bids via the Online Portal. Proponents should read [Section 3](#) to complete their Stage A – Project Bid.

### Information to complete

Tender Step	Proponent requirements
Select the relevant hyperlink to learn more.	
 <p><b>Stage A Project Bid</b></p>	<p><b>Submit online the completed Project Bid form and provide the corresponding Returnable Schedules and the required documentation and information necessary to demonstrate satisfaction of each <a href="#">Proponent and Project Eligibility Criteria</a> and <a href="#">Merit Criteria 1 to 4</a>.</b></p> <p><b>Provide executed Process Deed Poll.</b></p> <p><i>Stage A – Project Bid Merit Criteria</i></p> <ul style="list-style-type: none"> <li>• <a href="#">Merit Criterion 1 – Contribution to system reliability and system benefits</a></li> <li>• <a href="#">Merit Criterion 2 – Project deliverability and timetable</a></li> <li>• <a href="#">Merit Criterion 3 – Organisational capability to deliver Project</a></li> <li>• <a href="#">Merit Criterion 4 – First Nations engagement, community engagement and community benefit sharing</a></li> </ul> <p>For the avoidance of doubt, Proponents should consider any commitments made under Merit Criterion 4 to be binding under the Project Bid.</p>

Proponents may submit with the Stage A – Project Bid a Returnable Schedule in the form of a table of indicative departures from the draft Project Documents, including the rationale for each indicative departure.

This is not mandatory. The table of indicative departures will not form part of the Stage A - Project Bid assessment. Instead, the table of indicative departures from the draft Project Documents will be considered by the Australian Government and AEMO to determine whether any further amendments will be made to the Project Documents before Stage B – Financial Value Bid commences.

### **2.2.1 Stage A – Project Bid assessment**

The purpose of the Project Bid assessment is to select a shortlist of Project Bids (**Project Shortlist**) to progress to Stage B – Financial Value Bid.

#### **Assess Eligibility Criteria**

Proponents and their Project Bids:

- will be assessed against the Proponent Eligibility Criteria and Project Eligibility Criteria.
- must satisfy each of the Eligibility Criteria to progress to assessment against Merit Criteria 1 to 4.
- that do not meet all Eligibility Criteria in accordance with [Section 3.1](#) will not be considered further in the Tender Process.

#### **Assess Stage A – Project Bid Merit Criteria**

Proponents and their Project Bids that satisfy the Eligibility Criteria will be assessed and scored against the Stage A – Project Bid Merit Criteria. Proponents are required to provide evidence to support their responses to each of the Merit Criteria when submitting a Project Bid. A list of required Returnable Schedules and expected attachments is provided in Section 3.2.1.

#### **Assess Project Bids**

Project Bids will be assessed against the Merit Criteria using the information provided in the Project Bid form, Returnable Schedules and required attachments.

Project Bids that are assessed as low merit against any individual Merit Criterion may not be further assessed and may not be progressed to the Project Shortlist.

Following the Stage A merit assessment, an overall weighted score will be developed for each Project Bid using the weightings in

Table 1. Project Bids will be ranked based on overall weighted score, and the Project Shortlist will be developed considering the ranked list.

In developing the Project Shortlist, AEMO may, in its discretion, consider whether to include a lower ranked Project Bid in the Project Shortlist, under circumstances that may include (but are not limited to):

- when a Project located in one jurisdiction is preferred over a higher or similarly ranked Project in another jurisdiction to ensure sufficient competition for the target volume of generation capacity in each jurisdiction.
- when Projects on the Project Shortlist collectively give rise to technology, geographic, Proponent, or supplier concentration risks and shortlisting additional Projects would mitigate this risk. For example, where a single Proponent has multiple projects; where bulk of projects are utilising the same generation technology, which may impact adversely on system reliability and system benefits; where a single contractor is supporting multiple Proponents; or where multiple Projects are concentrated in one geographic region.

### **Treatment of Hybrid Projects bidding for a Generation CISA**

Under the CIS, Hybrid Projects are eligible to participate in this Tender 1 Process and are expected to be defined as co-located generation and energy storage assets for which both assets must have i) the same connection point and are ii) owned by the same special purpose vehicle.

For clarity, Projects that combine multiple generation assets (e.g., wind and solar) that share a common connection point are not expected to be considered a Hybrid Project for the purposes of this Tender 1 Process. Instead, such projects will be treated as a Generation Project for assessment and contracting.

The CISA under this Tender 1 Process will aim to accommodate multiple types of hybrid configurations and may require amendments and additional obligations to enable novel hybrid project configurations. These obligations are expected to require revenue-quality sub-metering for each component of the Hybrid Project.

A Hybrid Project may provide additional market benefits compared to a Generation Project and deliver the Project with higher expected revenues. Consequently, an Assessed Hybrid Project Bid could demonstrate a higher expected Financial Value against [Merit Criterion 5](#). In addition, an Assessed Hybrid Project may be able to provide greater system reliability and other system benefits, which could also contribute favourably towards the merit assessment against Merit Criterion 1 for an Assessed Hybrid Project Bid.

Assessed Hybrid Project Bids will be assessed against each Merit Criteria for both the generation and storage components. If an Assessed Hybrid Project Bid is ultimately awarded a CISA, the Proponent will be required to deliver the whole Hybrid Project (i.e., both the Generation Project and the co-located Associated Project).

If the Proponent elects to submit a Bid as a Non-Assessed Hybrid Project Bid, the Associated Project will not be included in the assessment of the Proponent's Bid.

### **Staged Projects and/or Projects with multiple connections**

Proponents with staged Projects and/or Projects with multiple connections may need to consider how to participate in the Tender 1 Process. The Australian Government will determine whether a Project is a staged Project on a case-by-case basis during the assessment process. The following are indicators of a staged Project:

- the Project has multiple grid connections and AEMO registrations.
- each stage of the Project is capable of being owned by different equity holders, financed by different debt providers or built by different engineering, procurement and construction contractors.
- stages of the Project may share infrastructure, but an initial stage is not necessarily dependent on a subsequent stage. Projects that Bid wholly in a single CIS tender will be assessed against the Merit Criteria and Eligibility Criteria as a single Project.


**Table 1 Stage A – Project Bid Merit Criteria weightings**

Merit Criteria (MC)	Weighting
MC1 – Contribution to system reliability and system benefits	25%
MC2 – Project deliverability and timetable	25%
MC3 – Organisational capability to deliver Project	25%
MC4 – First Nations engagement, community engagement and benefits sharing	25%

## 2.3 Stage B – Financial Value Bids

The Project Shortlist will be invited to submit a Financial Value Bid which is comprised of the Financial Value Bid form, relevant Returnable Schedules and required attachments.

### Information to complete

Tender Step	Proponent requirements
Select the relevant hyperlink to learn more	
 <p><b>Stage B Financial Value</b></p>	<p><b>Invited Project Shortlist submit:</b></p> <ul style="list-style-type: none"> <li>a Default Financial Value Bid and may submit an Alternative Financial Value Bid via an online Financial Value Bid form with corresponding Returnable Schedules.</li> <li>Project Documents in the form of an offer for acceptance by the Australian Government complete and capable of execution, except for, in the case where the Bid Entity will be a special purpose vehicle, the Bid Entity's details and execution block.</li> </ul> <p><i>Stage B – Financial Value Bid Merit Criteria</i></p> <ul style="list-style-type: none"> <li><a href="#">Merit Criterion 5 – Financial value</a></li> <li><a href="#">Merit Criterion 6 – Commercial departures</a></li> <li><a href="#">Merit Criterion 7 – First Nations and social licence commitments</a></li> </ul> <p>For the avoidance of doubt, Proponents should consider any commitments made under Merit Criterion 7 to be binding under the Default and Alternative Financial Value Bid.</p>

Proponents should read [Section 3](#) to complete their Stage B – Financial Value Bid.

AEMO may, at its absolute discretion, amend or request that Proponents amend the permitted Bid Variables or number of Alternative Financial Value Bids at any stage of the Tender Process. In these cases, all Proponents at the relevant stage of assessment will be notified of the conditions and timeframe to prepare their Alternative Financial Value Bids.

### 2.3.1 Stage B – Financial Bid assessment

The purpose of the Stage B – Financial Bid assessment is to assess the Bids submitted by the invited Project Shortlist to develop a shortlist of Financial Value Bids (**Financial Value Shortlist**).

#### Assess Stage B – Financial Value Merit Criteria

Project Shortlist Proponents and their Projects will be assessed and scored against the Stage B – Financial Value Bid Merit Criteria (Merit Criteria 5-7).

#### Default Financial Value Bids and Alternative Financial Value Bids

At Stage B – Financial Value Bid, Proponents must submit a Default Financial Value Bid.

To provide flexibility and encourage commercial innovation, Proponents may submit an Alternative Financial Value Bid, in addition to a Default Financial Value Bid, in which the permitted Bid Variables are adjusted. The Alternative Financial Value Bid may differ from the Default Financial Value Bid by proposing different Bid Variables. Alternative Financial Value Bids will be assessed against the same Stage B – Financial Value Merit Criteria.

The Default and Alternative Financial Value Bids must be identical other than amendments to the Bid Variables outlined in Table 2 below.

**Table 2 Key Commercial Terms and Bid Variables**

Key commercial terms (unit)	Default Financial Value Bid or Alternative Financial Value Bid
Support Period Start Date (date)	<b>Bid Variable</b>
Final Support Commencement Date (date)	<b>Bid Variable</b>
Final Expiry Date (date)	<b>Bid Variable</b> Maximum of 15 years after the earlier of the Commercial Operations Date and the Final Support Commencement Date <sup>3</sup>
Bid prices - Floor and Ceiling (\$/MWh)	<b>Bid Variables</b> (which may be a schedule of distinct fixed nominal dollars for each year of support)
Annual Payment Caps (\$ per annum)	<b>Bid Variable</b> Provided as a schedule of Annual Payment Caps that may vary for each year of support in fixed nominal dollars over the nominated contract term
Revenue Floor Support Percentage (%)	90%
Revenue Ceiling Sharing Percentage (%)	50%

### Develop Financial Value Shortlist

Each Financial Value Bid for a Project will be assessed against the same Financial Value Merit Criteria. If two Financial Value Bids are submitted in respect of a Project, only the higher merit Bid may be progressed in the assessment and included in the Financial Value Shortlist.

Financial Value Bids assessed as being of:

- **low merit** against any individual Financial Value Merit Criterion may not be further assessed and may not be progressed to the Financial Value Shortlist. As such, it is possible that a Financial Value Bid that ranks, or would have ranked, highly on the ranked list based on overall weighted score (see below) may not be progressed if it scores low on an individual Financial Value Merit Criterion.
- **high merit** may be progressed to the Financial Value Shortlist in accordance with the process described below.

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<sup>3</sup> Each defined in the draft CISA available on the AEMO Services website (<https://aemoservices.com.au/tenders/cis-tender-1-generation-nem>).

Following the assessment, a weighted score will be developed for each Financial Value Bid using the weightings in Table 3. Financial Value Bids will then be ranked based on this weighted score, and the Financial Value Shortlist will be developed considering this ranked list.


**Table 3 Stage B – Financial Value Merit Criteria weightings**

Merit Criteria (MC)	Weighting
MC5 – Financial value	65%
MC6 – Contract departures	10%
MC7 – First Nations and social licence commitments	25%

In developing the Financial Value Shortlist, AEMO may, in its discretion, consider whether to include a lower ranked Bid in the Financial Value Shortlist, under circumstances that may include (but are not limited to) where:

- the Projects on the Financial Value Shortlist collectively give rise to technology, geographic, Proponent, or supplier concentration risks. For example, where a Proponent has multiple projects; where bulk of projects are utilising the same generation technology, which may impact adversely on system reliability and system benefits; where a single contractor is supporting multiple Proponents; or where multiple Projects are concentrated in one geographic region.
- the Projects on the Financial Value Shortlist collectively give rise to Projects with a mix of expected CODs that are inconsistent with an efficient trajectory to achieving the Australian Government’s 82% renewable energy by 2030 target.
- a Project located in one jurisdiction is preferred over a higher or similarly ranked Project in another jurisdiction in order to meet the sub-targets allocated to each jurisdiction or to avoid concentration of Projects in one or the other jurisdiction.
- a lower or similarly ranked Project better aligns with the policy objectives. For Projects in NSW, to align with section 48(3) of the EII Act.
- the Projects on the Financial Value Shortlist collectively comprise a concentration of Projects with a higher overall risk profile, including, but not limited to, high financial and/or delivery risks. In assessing the overall risk of a Project, the score, Bid responses and supporting evidence from Stage A may be taken into consideration in determining if the Project should remain on the Financial Value Shortlist.

## 2.4 Stage C – Due diligence and Recommended Bids

Tender Step	Proponent requirements	
	Select the relevant hyperlink to learn more	
 <p><b>Stage C</b> <b>Due diligence &amp; Recommended Bids</b></p>	Proponents may be requested to provide additional information including information identified in <a href="#">Section 5</a> and the Project Documents may be negotiated.	<p><b>Due diligence</b> is undertaken on Bids on the Financial Value Shortlist.</p> <p><b>Recommended Bids</b> are provided to the Australian Government based on the outcomes of the tender assessment process and the negotiation of Project Documents.</p>

### Due diligence

Due diligence may be undertaken on Project or Financial Value Bids at any time – activities may include:

- Commissioning or completing relevant research, analysis and modelling to support assessment of Project or Financial Value Bids.
- Contacting any relevant Australian Government, State or Territory Government or other relevant parties about a Bid, Project or Proponent.
- Seeking information from third-parties to validate information provided by all Proponents relating to the progress of a Project and expected commissioning timeframes. This includes, but is not limited to, information from the relevant network service provider, AEMO connections, the relevant local council and/or the State/Territory planning authority.
- In respect of Bids included on the Financial Value Shortlist:
  - compliance of the Proponent and its direct and indirect equity owners with Eligibility Criteria 2, 3, 4, 5 and 6 (and, in the case of the equity owners, as if the relevant equity owner was a Proponent).
  - confirmation of continuing compliance with the Eligibility Criteria.
  - re-assessment of any or all Merit Criteria.
- A detailed assessment of Project delivery risks against the development milestones bid by the Proponent, corporate and financial capacity and viability assessment and confirmation of compliance with Foreign Investment Review Board and relevant work health and safety and other regulatory requirements.
- A review and assessment of further information to be submitted by the Proponent including information identified in Section 5.

Bids that are the subject of adverse due diligence findings may be excluded from further consideration or, in respect of Financial Value Bids that have been included in the Financial Value Shortlist, excluded from selection as a Recommended Bid at the absolute discretion of AEMO. AEMO may, but is under no obligation to, seek a response from a Proponent in relation to such an adverse

due diligence finding prior to deciding whether to exercise its discretion to exclude a Project or Financial Value Bid from further consideration.

### **Recommended Bids**

AEMO and/or the Australian Government may negotiate with Proponents on proposed Project Document departures.

AEMO will make recommendations to the Australian Government about the Recommended Bids, including a form of negotiated Project Documents, consistent with these Tender Guidelines.

## **2.5 Selection of Successful Proponents**

The Australian Government, through the Minister, will select the Successful Proponents.

Successful Proponents will be notified by the Australian Government that it intends to enter into the Project Documents with the Successful Proponent, on terms that are satisfactory to the Australian Government, and on any other conditions set out in other Project Documents. A Proponent is bound by its Bid and, if selected as a Successful Proponent, must enter into Project Documents on the basis of the Bid, subject to any amendments agreed with the Australian Government.

The selection of a Proponent as a Successful Proponent does not of itself give rise to an express or implied contract between the Successful Proponent and the Australian Government to provide financial support to the Successful Proponent regarding the relevant Project. No legal relationship will form between the Successful Proponent and the Australian Government (regarding the Australian Government providing financial support to the Successful Proponent for the relevant Project) until such time as a binding contract (in the form of the finalised Project Documents) is executed by the parties. The Australian Government, including the Minister, is under no obligation to enter into a contract with a Successful Proponent or any other person. This paragraph is without prejudice to the tender process contract formed between the Australian Government and a Proponent pursuant to [Section 4.1](#) of these Tender Guidelines and the Process Deed Poll.

### 3 Assessment criteria and Bid documentation

The assessment criteria comprise the Eligibility Criteria and the Merit Criteria. This section outlines the information and supporting documentation requirements for each of the Eligibility Criteria and Merit Criteria.

Proponents should ensure that all of the requested supporting documentation is provided in their response to each of the Eligibility Criteria and Merit Criteria. The Project Bid form, Financial Value Bid form and relevant Returnable Schedules will be provided to Proponents for populating as specified.

It is the responsibility of a Proponent to ensure that its Bid addresses each of the Eligibility Criteria and Merit Criteria. Bids should not rely on links to external documents or websites, and any such links may not be viewed during assessment.

#### **How NSW Projects will be assessed in Tender 1 Process**

For Projects in NSW, the requirements and application of certain Project Eligibility Criteria and Merit Criteria have been tailored for this Tender 1 Process to align with the following requirements of the EII Act:

- The committed status cut-off date for NSW Projects to be eligible to participate in this Tender 1 Process has been aligned to the equivalent date stipulated in the EII Act to ensure that Projects that would have been eligible for a Generation LTESA in NSW Tender Round 5 are also eligible to enter into a Generation CISA in this Tender 1 Process (see [Eligibility Criterion 11](#)).
- Projects seeking access rights to SW REZ or CWO REZ do not require a connection enquiry response from a network service provider to be eligible to participate in this Tender 1 Process (see [Eligibility Criterion 13](#)). This is to reflect the different connection process for these projects. The assessment of the connection pathway for these projects will consider certainty and risks of the REZ connection process and a credible plan to achieve the Project's specified COD Target Date (see [Merit Criterion 2](#)).
- The assessment of engagement with First Nations people and social licence commitments for Projects located in NSW will take into account the First Nations Guidelines and NSW Renewable Energy Sector Board (RESB) Plan as at the Project Bid and Financial Value Bid Closing Date and Time (see [Merit Criterion 4](#) and [Merit Criterion 7](#), respectively).
- To align with section 48(3) of the EII Act, for NSW, where a Project located within a REZ geographic boundary is assessed to be of equivalent merit to a Project located outside a REZ geographic boundary, the Project within the REZ will be preferred.

## 3.1 Eligibility Criteria (EC)

The Proponent Eligibility Criteria and Project Eligibility Criteria are listed in Table 4 and Table 5, respectively. Proponents must propose one Bid Entity (see EC7) and should also refer to the information contained in [Section 4.24](#) of the Tender Conditions for the requirements of a Proponent. If the Bid Entity is not the Proponent, the Proponent must also provide equivalent information demonstrating that the Bid Entity also meets (or, when it is established, will meet) the Proponent Eligibility Criteria (other than EC7).

If a Bid Entity is established after registration for this Tender 1 Process, but before submission of a Project Bid, the Proponent must also provide equivalent information demonstrating that the newly established Bid Entity also meets the Proponent Eligibility Criteria (other than EC7).

Each Proponent must provide information as part of its Project Bid which demonstrates that the Proponent and its Project meets all the listed Eligibility Criteria. Project Bids submitted by Proponents that do not meet all Eligibility Criteria will not be further assessed.

Proponents will be required to confirm compliance with each of the Eligibility Criteria via the Online Portal during Stage A – Project Bid.

**Table 4 Proponent Eligibility Criteria**

Item	Criteria
<b>EC1</b>	<p>The Proponent must:</p> <ol style="list-style-type: none"> <li>at the time of submitting the Project Bid, hold an Australian Business Number (ABN); and</li> <li>be one of the following: <ul style="list-style-type: none"> <li>an Australian entity incorporated under the <i>Corporations Act 2001</i> (Cth);</li> <li>a Commonwealth entity, as described in section 10 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth) (<b>Commonwealth Entity</b>);</li> <li>an Australian State or Territory owned (wholly or partly) corporation or a subsidiary of a State or Territory owned (wholly or partly) corporation; or</li> <li>an Australian local government or council or an Australian organisation that has the purpose of representing and supporting local governments or councils.</li> </ul> </li> </ol>
<b>EC2</b>	The Proponent, its Consortium Members and its or their respective Related Bodies Corporate must not have had a judicial decision relating to employee entitlements made against it (not including decisions under appeal), in respect of which the Proponent, its Consortium Members and its or their respective Related Bodies Corporate has failed to pay any amounts required to be paid following that judicial decision.
<b>EC3</b>	The Proponent, its Consortium Members and its or their respective Related Bodies Corporate must not be named as an organisation that is currently not complying with the <i>Workplace Gender Equality Act 2012</i> (Cth) ( <b>WGEA</b> ). The Proponent must make a declaration in the Bid form to demonstrate that it, its Consortium Members and its or their respective Related Bodies Corporate understand and meet their respective obligations, if any, under WGEA.
<b>EC4</b>	The Proponent, its Consortium Members and its or their respective Related Bodies Corporate must not, within the previous 10 years, have been subject to an inquiry by the National Anti-Corruption Commission, or an equivalent body in a jurisdiction in Australia, where a finding has been made against one of them (including a finding that one of them has engaged in corrupt conduct).
<b>EC5</b>	The Proponent, its Consortium Members and its or their respective Related Bodies Corporate must not be named as an organisation on the Consolidated List maintained by the Australian Sanctions Office within the Department of Foreign Affairs and Trade.

Item	Criteria
<b>EC6</b>	If the Proponent, its Consortium Members and its or their respective Related Bodies Corporate is a 'reporting entity' under the <i>Modern Slavery Act 2018</i> (Cth), they must have complied with their obligations under that Act, including (if applicable) registering a Modern Slavery statement with the Attorney General's Department.
<b>EC7</b>	<p>The Proponent must propose one Bid Entity, which may be the Proponent and which, at the time of the execution of the CISA, must be a special purpose vehicle which:</p> <ul style="list-style-type: none"> <li>(a) itself satisfies Eligibility Criteria 1;</li> <li>(b) only carries on the Project and conducts no other business; and</li> <li>(c) holds all of the assets, and is entitled to all of the revenue, of the Project.</li> </ul>

**Table 5 Project Eligibility Criteria**

Item	Criteria
<b>EC8</b>	The Project must be registered or must state in its application that it intends to register, with AEMO for the central dispatch process under the National Electricity Rules ( <b>NER</b> ) in relation to a region of the NEM.
<b>EC9</b>	The Project must have a registered capacity of not less than 30MW.
<b>EC10</b>	<p>The Project's fuel source must be an eligible renewable energy source, as described in section 17 of the <i>Renewable Energy (Electricity) Act 2000</i> (Cth) and must be eligible to create large-scale generation certificates under that Act.</p> <p>Projects that use native forest wood waste are not eligible.</p>
<b>EC11</b>	<p><u>For Projects in Queensland, Victoria, Tasmania, South Australia and ACT:</u> The Project was not identified as committed or existing, in the AEMO Generation Information page published on 29 January 2024, unless it is an expansion project to an existing storage or generation asset, or the Project involves the addition of new storage or generation assets to existing shared infrastructure.</p> <p><u>For Projects in NSW:</u> The Project is not identified as committed or existing in a generation information page published by AEMO on or before 14 November 2019.</p>
<b>EC12</b>	<p>The Project must not be subject of (or have been awarded) a long-term (10 years or more) revenue underwriting agreement with the Australian Government, or a State or Territory of Australia under which:</p> <ul style="list-style-type: none"> <li>a) 50% or more of the Project's nameplate capacity is contracted for a purpose under that revenue underwriting agreement; and</li> <li>b) the Project receives or is or will become entitled to receive either periodic or ongoing payments under that revenue underwriting agreement (<b>Revenue Support</b>).</li> </ul> <p>For the purposes of this Eligibility Criterion, Revenue Support excludes:</p> <ul style="list-style-type: none"> <li>a) non-concessional funding provided by the Clean Energy Finance Corporation (<b>CEFC</b>);</li> <li>b) revenue associated with certificates created or received under an Australian Government, State or Territory capacity, generation or green certificate scheme;</li> <li>c) financial incentives or payments received from an Australian Government, State or Territory to alter electricity consumption to influence electricity demand;</li> <li>d) investment received from an Australian Government or State or Territory government body;</li> <li>e) grants from an Australian Government or State or Territory government body, whether repayable or not; and</li> <li>f) any new policy announced to support the development of renewable energy projects (i.e. funding from the proposed NSW Energy Security Corporation).</li> </ul>
<b>EC13</b>	<p>The Project must:</p> <ul style="list-style-type: none"> <li>a) have received a network service provider response to a connection enquiry;</li> <li>b) have executed a connection agreement; or</li> <li>c) be in the process of seeking to amend an existing connection agreement.</li> </ul> <p><i>Note: This Eligibility Criterion does not apply to projects that are seeking to bid for access rights for SW or CWO REZs, or are awaiting an access right notification response.</i></p>

Item	Criteria
<b>EC14</b>	<p>The Project must have received a project assessment decision from the relevant planning authority under the applicable State or Territory legislation, or alternatively, if a project assessment decision is not required, the Proponent must have lodged a development approval application under the relevant State or Territory planning legislation in relation to the Project. AEMO may require the Proponent to provide evidence, to the reasonable satisfaction of AEMO, of the project assessment decision or lodgement of the development approval application in relation to the Project.</p> <p>See Table 6 below on the State specific requirements.</p>

**Table 6 State specific requirements for EC14**

State	State Specific EC14 Criteria
<b>NSW</b>	The Project must have received a Secretary's Environmental Assessment Requirements ( <b>SEARs</b> ) or, if SEARs do not apply, have lodged a development application for consent under the <i>Environmental Planning and Assessment Act 1979</i> (NSW) in relation to the Project.
<b>ACT</b>	The Project must have been issued a Scoping Document from the Territory Planning Authority under the <i>Planning Act 2023</i> (ACT) ( <b>Planning Act</b> ), or, if a Scoping Document is not required for the Project, a Development Application for the Project has been submitted under the Planning Act.
<b>SA</b>	<p>The Project must have been classified or declared as impact assessed development (not being restricted development) under Part 7 of the <i>Planning, Development and Infrastructure Act 2016</i> (SA) (<b>PDI Act</b>), or if the Project is not so declared or classified:</p> <ul style="list-style-type: none"> <li>(a) a development application for planning consent must have been submitted under the PDI Act in relation to the Project; or</li> <li>(b) if the Project is being assessed under Part 8 or Part 9 of the PDI Act, an application for a development authorisation must have been submitted under Part 8 or 9 (as applicable); or</li> <li>(c) the Project is excluded from a requirement to make an application for a development authorisation in relation to the Project.</li> </ul>
<b>VIC</b>	<p>The Minister administering the <i>Environment Effects Act 1978</i> (VIC) must have declared or decided that an Environment Effects Statement (<b>EES</b>) should be prepared for the Project, or if an EES is not required for the Project:</p> <ul style="list-style-type: none"> <li>(a) an application for a planning permit must have been lodged under the <i>Planning and Environment Act 1987</i> (Vic) (<b>PE Act</b>) in relation to the Project; or</li> <li>(b) an amendment to the applicable Planning Scheme(s) to facilitate the Project is being prepared by, or has been authorised by, the Minister administering the PE Act to exclude the Project from a requirement in the applicable planning scheme(s) from the need for a permit.</li> </ul>
<b>TAS</b>	The Project has been declared a major project under Part 4 of the <i>Land Use Planning and Approvals Act 1993</i> (Tas) ( <b>Land Use Act</b> ) or, if the Project is not so declared, a planning permit application has been made in relation to the Project under the Land Use Act in relation to any aspects of the Project that require a permit.
<b>QLD</b>	<p>If:</p> <ul style="list-style-type: none"> <li>(a) the traditional planning pathway under the <i>Planning Act 2016</i> (Qld) (<b>Planning Act</b>) is being pursued, the Project has lodged a development approval application with the relevant assessment agency under the Planning Act in relation to the Project; or</li> <li>(b) the coordinated project pathway under the <i>State Development and Public Works Organisation Act 1971</i> (Qld) is being pursued, the Project has been declared by the Coordinator-General to be a coordinated project for which an impact assessment report (<b>IAR</b>) or environmental impact statement (<b>EIS</b>) is required.</li> </ul>

## 3.2 Merit Criteria (MC)





Bids will be assessed against the Merit Criteria in Section 3.2.1 and Section 3.2.2.

Proponents will be required to provide responses and supporting documentation against each of the Merit Criteria. The “what is required” column in each Merit Criteria table details the information that Proponents should provide and a list of expected supporting documentation is provided below.

Proponents will also be required to provide target (or actual, if applicable) dates for Financial Close and the Commercial Operations Date. These dates should be consistent in a Proponent’s Stage A – Project Bid and its Stage B – Financial Value Bid.

### 3.2.1 Stage A – Project Bid Merit Criteria

The Project Bid Merit Criteria and a description of how Proponents can demonstrate the merit of their Project, are listed below.

Select the relevant Merit Criterion to learn more	
	<a href="#"><u>Merit Criterion 1 – Contribution to system reliability and system benefits</u></a>
	<a href="#"><u>Merit Criterion 2 – Project deliverability and timetable</u></a>
	<a href="#"><u>Merit Criterion 3 – Organisational capability to deliver the Project</u></a>
	<a href="#"><u>Merit Criterion 4 – First Nations engagement, community engagement and benefits sharing</u></a>

Projects that can demonstrate some or all of the characteristics outlined below may be considered higher merit in the Stage A Project Bid assessment:

- The Project has received a letter from AEMO under clause 5.3.4 of the NER for its proposed network connection, or formally engaged with EnergyCo where connecting to an access rights network in NSW. The Project has received development approval from the relevant planning authority under the applicable State or Territory legislation.
- If required for the Project, the Project has received approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- The Project has secured conditional financing arrangements with funding providers.
- The Project has secured all necessary land tenure rights for the Project and connection route (if the connection route is the responsibility of the Project).

- The Project has executed a contract or term sheet with the EPC Contractor and/or OEM.
- The Project has engaged with the local community and/or relevant First Nations communities. The Project can demonstrate it has been building trust and demonstrating stronger commitment towards interested and/or potentially impacted local and First Nations communities.
- Engagement with local community to develop and commit benefit sharing initiatives.
- Projects that can provide a completed MC4 schedule with scope and milestones clearly detailed that are contractually enforceable.

### ***Stage A Merit Criteria – Expected supporting documentation***

Proponents are expected to provide the supporting attachments listed below to assist in the assessment of their Project Bid. Additional documents submitted may be used for verification and due diligence purposes, but may not be assessed in detail during the Stage A Project Bid assessment.

Expected Project Bid attachments	
<b>Merit Criterion 1 – Contribution to system reliability and system benefits</b>	<input type="checkbox"/> Technical reports and/ or independent studies about the Project’s contribution to system reliability and/ or additional system benefits. <input type="checkbox"/> Single Line Diagram of the Project, including connection details.
<b>Merit Criterion 2 – Project deliverability and timetable</b>	<p>Key project details</p> <input type="checkbox"/> Project development plan and schedule <input type="checkbox"/> Project risk register <input type="checkbox"/> Site map of the Project <p>Evidence of progress towards securing land tenure rights:</p> <input type="checkbox"/> For the project site <input type="checkbox"/> For the connection route <p>Evidence of progress towards securing the Network Connection:</p> <input type="checkbox"/> Executed Connection Agreement, or <input type="checkbox"/> A clause 5.3.4 letter from AEMO (pursuant to section 5.3.4 of the NER), or <input type="checkbox"/> Progress towards securing Connection Agreement and/or Registration <p>Evidence of progress towards securing planning approvals from the relevant authority</p> <input type="checkbox"/> Development approval or development consent from the relevant planning authority under the applicable State or Territory legislation, or <input type="checkbox"/> Environmental Impact Statement (EIS), or <input type="checkbox"/> Other evidence of planning approvals <p>Evidence of appropriate financing and revenue strategies</p> <input type="checkbox"/> Corporate structure diagram; <input type="checkbox"/> Relevant financier agreements or evidence of commitment from preferred financiers (e.g. draft term sheets, conditional letters of support, any pre-feasibility studies that have been conducted or commissioned in respect of the Project); <input type="checkbox"/> Evidence of progress toward your Project’s revenue strategy (e.g. conditional letters of commitment from offtakers, term sheets, offtake agreements, etc.) <p>Evidence of progress towards securing key contractors</p> <input type="checkbox"/> Evidence of finalised construction contracts or evidence that formal procurement is underway for relevant EPC contractors

Expected Project Bid attachments	
	<input type="checkbox"/> Evidence of finalised equipment manufacturers contracts or evidence that formal procurement is underway for relevant OEM providers
<b>Merit Criterion 3 – Organisational capability to deliver the Project</b>	<input type="checkbox"/> Evidence of a track record of developing and delivering renewable energy projects (e.g. list of previous projects completed) <input type="checkbox"/> Corporate structure for any direct or indirect equity owners
<b>Merit Criterion 4 –First Nations engagement, community engagement and benefit sharing</b>	<input type="checkbox"/> Completed MC4 returnable schedule with scope and milestones clearly detailed that are contractually enforceable <input type="checkbox"/> Evidence on how stakeholder, community and First Nations groups' feedback has been considered and incorporated <input type="checkbox"/> Stakeholder, Community and First Nations Engagement Plan

### Merit Criterion 1 – Contribution to system reliability and system benefits

This criterion will be used to assess the impact each Project may have on the electricity system, including Congestion, reliability, and the Project's ability to provide essential system services and/or contribute to system strength.

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>A Project's potential impact on network Congestion and/or ability to provide additional system benefits. This includes the Project's effects on other projects connected or expecting to connect to the network prior to the Project.</li> <li>A Project's contribution to system reliability and its impact on the electricity system.</li> <li>A Project's contribution to system security services, including system strength, voltage control, frequency management and system restoration, when relevant.</li> <li>This analysis may refer to materials published by AEMO and apply it to the assessment, such as the Integrated System Plan or Electricity Statement of Opportunities.</li> </ul>	<ul style="list-style-type: none"> <li>Technical information about the Project's connection point, connection type, project size and technology type.</li> <li>Basic specifications relating to system strength (fault current), voltage management (reactive power), frequency management (ramping capability) and system restoration capability (black-start).</li> </ul>	<ul style="list-style-type: none"> <li>Projects intending to locate: <ul style="list-style-type: none"> <li>in strong areas of the network, or</li> <li>with a connection that is not likely to lead to material curtailment and/or Congestion of the Project's own generation or the generation of nearby renewable projects.</li> </ul> </li> <li>Projects capable of providing essential system security benefits, targeting the automatic access standard defined in the NER, including contributing to system strength, voltage control, frequency management, and additional services such as system restoration support.</li> </ul>

### Merit Criterion 2 – Project deliverability and timetable

This criterion will be used to assess the Project's ability to be operational by its COD Target Date. Proponents that can provide detailed evidence to demonstrate their ability to deliver each milestone, with clear articulation of strategies for mitigating delivery risks, are likely to be assessed more favourably. Successful proponents will have the target financial close, COD, and other key dates scheduled as milestones in the final CISA.

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>• A Project's progress towards achieving key development milestones and feasibility of reaching its targeted financial close and COD. This includes: <ul style="list-style-type: none"> <li>– Alignment between the target date for achieving financial close and the plan to achieve COD.</li> <li>– Understanding of key development and construction risks (including mitigation strategies) to achieve COD.</li> </ul> </li> <li>• Financing strategy and financial capacity to support the development, construction and operation of the Project.</li> <li>• Contracting strategy and progress in securing partners and suppliers to deliver the Project.</li> </ul>	<b>Development pathway</b> <ul style="list-style-type: none"> <li>• A Project development plan and schedule. The project development plan should include, in addition to standard inclusions, a Gantt chart, key assumptions that have been made in the Project development plan and the governance framework for the Project.</li> <li>• Site map of the Project, including Project site and all relevant easements, with cadastral ID, and proponent land tenure rights, infrastructure and/or construction needs.</li> <li>• Planning approval documentation (e.g. Environmental Impact Assessment, Development Application lodgement, notification, Development Consent decision notice).</li> <li>• If applicable, progress towards approvals required under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth) (<b>EPBC Act</b>).</li> <li>• If applicable, progress towards compliance with applicable Commonwealth and State legislation relating to First Nations communities and interests, Traditional Owner Groups and cultural heritage requirements, for example, <i>Aboriginal and Torres Strait Islander Act 2005</i> (Cth); <i>Native Title Act 1993</i> (Cth); <i>EPBC Act</i>; <i>Traditional Owner Settlement Act 2010</i> (Vic); <i>Aboriginal Heritage Act 2006</i> (Vic) and <i>Aboriginal Heritage Amendment Act 2016</i> (Vic) as applicable.</li> <li>• Evidence of connection approval progress, such as: <ul style="list-style-type: none"> <li>– CER under the NER.</li> <li>– Grid connection studies, payment of fees to progress grid connection application.</li> <li>– Evidence of progress of the Generator Performance Standards (GPS) package with AEMO.</li> <li>– Section 5.3.4 letter(s) (pursuant to section 5.3.4 of the NER).</li> <li>– Evidence of progress of AEMO registration process.</li> <li>– Network (Grid) Connection Agreement (or any related documentation).</li> </ul> </li> <li>• Note: For projects seeking to bid for access rights for South West or CWO REZs, a CER is not required. However,</li> </ul>	<b>Development pathway</b> <ul style="list-style-type: none"> <li>• Land tenure rights secured for all of the Project site (e.g. ownership, leases, or options), including the connection route if the connection route is the responsibility of the Project<sup>5</sup>.</li> <li>• Advanced grid connection progress with the relevant network service provider and AEMO in relation to the Project (not relevant for projects seeking an access right).</li> <li>• Evidence of progress towards securing all relevant planning and regulatory approvals and a pathway for securing any outstanding approvals required, including, when applicable, a clear pathway for resolving any ongoing concerns or queries of the authorities providing the requisite planning and regulatory approvals.</li> <li>• Evidence of progress towards compliance with applicable Traditional Owners and First Nations legislative and regulatory requirements.</li> <li>• A clear understanding of the Project risks (including but not limited to risks to securing grid connection, reaching COD, project governance risks, stakeholder and cultural heritage risks, construction and financing risks) and identified appropriate mitigants to resolve or reduce the associate risks.</li> </ul>

<sup>5</sup> For projects in the CWO REZ access scheme, this does not include the land tenure rights for the direct Project connection route that is to be delivered by the network operator.

What is assessed?	What is required?	What are we looking for?
	<p>details of the status of its application will be required<sup>4</sup>. These Projects should provide information equivalent to that required for a connection enquiry under the NER.</p> <ul style="list-style-type: none"> <li>A Project risk register that outlines key risks and relevant mitigants (e.g. risks to securing grid connection, risks of future transmission network augmentations not occurring as planned, risk of not achieving financial close and/or COD as planned, project cost/funding uncertainties, project governance risks, stakeholder and cultural heritage risks, other construction risks, etc.).</li> </ul>	
	<p><b>Financing and revenue strategy</b></p> <ul style="list-style-type: none"> <li>A corporate structure diagram of the Project/Bid Entity, outlining the relevant parent, subsidiary, and related entities, and detailing relevant financial arrangements at each level.</li> <li>A financing strategy or plan and a revenue contracting strategy or plan, including: <ul style="list-style-type: none"> <li>Evidence of financing progress (e.g. approved development funding, approved early construction budget).</li> <li>A detailed plan for raising capital, including outline of resources with demonstrated track record of raising capital.</li> <li>Proponents intending to utilise equity financing or corporate level debt facilities should provide details on the current availability of such facilities and the level of organisational endorsement and/or approvals for using such facilities concerning the Project (e.g. evidence of engagement with debt/equity financiers, firm financial commitments/contracts, security provided or proposed to be provided to a lender in respect of financing the Project).</li> <li>Project revenue strategy including contracting plan and (as relevant) status of offtake agreements.</li> </ul> </li> </ul>	<p><b>Financing and revenue strategy</b></p> <ul style="list-style-type: none"> <li>A clear pathway and detailed steps to financing the Project and achieving the target dates for financial close and COD. <ul style="list-style-type: none"> <li>For those projects also seeking a REZ access right in NSW, the pathway to achieving financial close by the Project's target date and to meeting the Project's target first commissioning date (with a reasonable buffer to mitigate the risk of any acceptable delays) must be demonstrated.</li> </ul> </li> <li>Evidence of progress towards finalising capital raising activities, substantiated through supporting documentation.</li> </ul>
	<p><b>Construction contracting</b></p> <ul style="list-style-type: none"> <li>Project delivery contracting structure and/or commercial delivery model in diagrammatic representation, including all relevant works packages and activities</li> </ul>	<p><b>Construction contracting</b></p> <ul style="list-style-type: none"> <li>Demonstrates a clear understanding and has identified the required commercial delivery model to develop the Project.</li> </ul>

<sup>4</sup> AEMO may verify this information with the relevant authority responsible for allocating access rights at any stage during the Tender Process.

What is assessed?	What is required?	What are we looking for?
	<p>related to procurement and construction of the project.</p> <ul style="list-style-type: none"> <li>Evidence of engagement with construction contractors and equipment manufacturers, such as: <ul style="list-style-type: none"> <li>EPC contractor and/or major equipment manufacturer engagement (e.g. correspondence, term sheet, early works contracts).</li> <li>Technical design summaries, and/or other activities related to procurement and construction of the Project.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Demonstrates progress toward securing relevant Project agreements (e.g. construction contracts).</li> </ul>

### Merit Criterion 3 – Organisational capability to deliver the Project

This criterion will be used to assess the track record, capability and capacity of the Proponent and its delivery partners involved in the Project to provide assurance that the Project can be delivered as outlined in the Project Bid.

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>The capability and track record of the Proponent (including its management and personnel) and its key delivery partners (including consortium members, suppliers, and contractors) involved in the Project.</li> <li>Experience in engaging with relevant stakeholders required to deliver the Project, including public authorities, communities, regulatory entities, and contractors).</li> <li>The capacity of the proponent and its delivery partners to dedicate the necessary resources to deliver the Project on time, and to meet quality requirements and budget.</li> </ul>	<ul style="list-style-type: none"> <li>Diagrams showing the corporate structure for the direct and indirect equity owners of the Proponent and Bid Entity and the contracting structure and/or delivery model for each of the Construction Period and Operations Period and/or commercial delivery model.</li> <li>An overview of the credentials and capabilities of the Proponent (or Consortium) and its (or their) personnel responsible for the delivery of the Project, including information on the track record of the Proponent's relevant projects delivered and/or operated in the last five (5) years.</li> <li>Roles and responsibilities of key resources required to deliver the Project, including consultants, advisors, and delivery partners.</li> </ul>	<ul style="list-style-type: none"> <li>Proponent and its delivery partners demonstrate a track record in delivering comparable projects (e.g. details of comparable projects, list/summaries of previous projects delivered).</li> <li>Information about any material work, health and safety incidents involving the Proponent or its Contractors, including evidence of steps taken to mitigate the likelihood of future incidents.</li> <li>Confirmation of compliance with applicable environmental regulations and industry standards. Instances of non-compliance, breach or default in previous or current comparable projects should be disclosed, including reasons for non-compliance and information regarding how the non-compliance was resolved.</li> <li>Proponent demonstrates a detailed and thorough understanding of the skills and experience required to deliver the Project and a plan for procuring them and includes detailed information about the availability of these resources and a strategy for securing them, if not already secured.</li> </ul>

## Merit Criterion 4 – First Nations engagement, community engagement and benefits sharing

This criterion will be used to assess the Proponent's approach to:

- engagement strategies and understanding of First Nations communities
- engagement strategies and understanding of stakeholders and local communities
- benefit sharing initiatives – shared community benefit commitments to First Nations, local community and stakeholders for the Project must be identified in the completed MC4 Returnable Schedule.

The Social Licence Market Briefing outlines the expectation for shared community benefit commitments and provides examples of commitments that could demonstrate merit and support higher quality Bid responses.

Proponents should consider any commitments made under this Merit Criteria 4 to be binding should the Project progress to Stage B – Financial Value Bid.

### First Nations engagement

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>• The Proponent's approach to engagement with First Nations communities.</li> <li>• Proponent's plan for and ability to demonstrate positive approaches to inform, consult, involve, collaborate and empower First Nations communities to identify and realise benefits from the Project.</li> <li>• Level of understanding of the influence and change the Project may have on the First Nations community and how the Project will create benefits sharing during development, construction and operation.</li> <li>• Commitment towards benefits sharing with First Nations communities. These commitments will become binding and will be subject to contractual monitoring and enforcement regimes if a Proponent is successful in the Tender Process.</li> </ul>	<p><b>Understanding First Nations communities:</b></p> <ul style="list-style-type: none"> <li>• Demonstrated understanding of local First Nations communities, consistent with applicable legislative requirements regarding First Nations, Traditional Owner Groups or cultural heritage</li> <li>• Detailed approach to First Nations community engagement, aligning with better practice engagement and applicable requirements set out in First Nations Commonwealth and state legislation in the relevant jurisdiction, as applicable<sup>6</sup>.</li> <li>• Description of First Nations communities acceptance for site selection and project layout, including consideration of community consultation and interests.</li> </ul> <p><b>Understanding of impacts:</b></p> <ul style="list-style-type: none"> <li>• Summary of consultation with First Nations communities that has occurred to date and planned engagement in the future.</li> <li>• Approach to minimise and offset any identified or perceived impacts of the Project on the First Nations communities that reflect positive impacts the Project will</li> </ul>	<ul style="list-style-type: none"> <li>• Clear identification and understanding of First Nations communities views on the Project, issues or the impacts raised, supported by evidence of appropriate engagement to date and evidence of early engagement.</li> <li>• Evidence of First Nations better practice engagement and place-based design, when appropriate to the Project site, including demonstration of culturally aware engagement that has led to, or is intended to establish, trust and meaningful relationships with relevant representative bodies.</li> <li>• Level of understanding of First Nations community access to affordable and reliable electricity and access to quality public and private infrastructure.</li> <li>• Active involvement of First Nations communities in the co-designing of benefit sharing schemes will be assessed favourably.</li> <li>• Evidence of First Nations shared benefits established, or to be established, that have a long-lasting and meaningful positive impact on First Nations communities. The quality and</li> </ul>

<sup>6</sup> For example, where key stakeholders are corporations registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), the Proponent is required to actively engage with the applicable Rule Book(s) of these key stakeholders when conducting its stakeholder mapping and determining how best to undergo consultation.

What is assessed?	What is required?	What are we looking for?
	<p>have, or may be expected to have, on First Nations communities.</p> <ul style="list-style-type: none"> <li>Evidence of having considered or incorporated the feedback from First Nations communities during Project design, development, and future implementation.</li> </ul>	<p>positive change experienced as a result of initiatives will be valued over the quantum of initiatives.</p>

## Stakeholder and local community engagement, and benefit sharing

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>The Proponent's approach to engagement with stakeholders (e.g. potentially affected licence holders) and local communities to foster support.</li> <li>Level of understanding of the influence and change the Project may have on the community and how the Project will create benefits sharing during development, construction and operation.</li> <li>These commitments will become binding and will be subject to contractual monitoring and enforcement regimes if a Proponent is successful in the Tender Process.</li> </ul>	<p><b>Understanding community stakeholders:</b></p> <ul style="list-style-type: none"> <li>Detailed approach to stakeholders and local community engagement, including communications protocol and complaints management.</li> <li>Demonstrated understanding of stakeholders and local community, including stakeholder mapping.</li> <li>Description of community acceptance for site selection and Project layout, including consideration of community consultation and interests.</li> </ul> <p><b>Understanding of impacts:</b></p> <ul style="list-style-type: none"> <li>Approach to minimise and offset the Project's impact on stakeholders and local communities.</li> <li>Summary of consultation with stakeholders and local communities that has occurred to date.</li> <li>Summary of the identified impacts that the Project will have, or may be expected to have, on the stakeholders.</li> <li>Evidence of having considered or incorporated the feedback from the local community during project design, development, and future implementation.</li> </ul> <p><b>Shared community benefit commitments:</b></p> <ul style="list-style-type: none"> <li>Shared community benefit commitments for the Project in the completed MC4 Returnable Schedule, including any specific First Nations benefit sharing initiatives.</li> </ul>	<ul style="list-style-type: none"> <li>Clear identification of the level of change that is expected to take place on stakeholders and communities and an understanding of their views, issues faced by them, supported by evidence of appropriate stakeholders and local community engagement to date and evidence of early engagement.</li> <li>Evidence of past stakeholder and local community engagement activities, including who was consulted and what communication tools were used.</li> <li>Evidence of building trust with stakeholders and local communities.</li> <li>Evidence of local community commitments and shared benefits established, or to be established, that have a long-lasting and meaningful positive economic and social impact on the beneficiaries. The quality and positive change experienced as a result of initiatives will be valued over the quantum of initiatives.</li> <li>Active involvement of local communities in the co-designing of benefit sharing schemes will be assessed favourably.</li> <li>Demonstration of commitments to shared benefits that exceed the minimum requirements of state or local government development / planning approval processes.</li> </ul> <p>Note: for Projects in NSW, this includes shared benefits beyond those included in Voluntary Planning Agreements.</p>

#### Note for Projects in NSW:

- Projects will also need to demonstrate alignment to the NSW [First Nations Guidelines](#) regarding consultation with local First Nations communities and the goals and aspirations for local First Nations communities included in region-specific guidelines.
- The employment and community purpose components of the access fee paid by access right holders will be assessed as contributing towards [Merit Criterion 4](#).
- Projects will still be required to provide a Community Engagement Plan outlining their commitments and community engagement activities. This plan can be consistent with the Social Licence Commitments submitted through access rights connection processes.




### 3.2.2 Stage B – Financial Value Merit Criteria

This section outlines the information required to assess the Merit Criteria for the Financial Value Assessment of shortlisted Proponents. Proponents must submit a [Default Financial Value Bid and may submit an Alternative Financial Value Bid](#).

Each Financial Value Bid will be assessed individually against the same Stage B – Financial Value Merit Criteria, below. The primary consideration in awarding the CISA to successful Projects under the CIS will be value for money, which extends beyond cost considerations.

#### Note for Projects in NSW:

If a Project is awarded an access right for a connection capacity that is below the Maximum Capacity stipulated in its Financial Value Bid, the Proponent must notify the Australian Government and AEMO as soon as practical and may be required to reduce its Maximum Capacity in its Financial Value Bid. The CISA will include provisions to enable the Maximum Capacity to be reduced should the access right be awarded after the CISA is awarded.

Select the relevant Merit Criterion to learn more	
	<a href="#">Merit Criterion 5 – Financial value</a>
	<a href="#">Merit Criterion 6 – Commercial departures</a>
	<a href="#">Merit Criterion 7 – First Nations and social licence commitments</a>

#### Merit Criterion 5 – Financial value

This criterion will be used to assess financial value, based on the forecast cost of the CISA compared to the benefits associated with the Project, including its effect on wholesale electricity costs, contribution to achieving 82% renewable energy by 2030, and contribution to reliability and system benefits.

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>The benefit that the Project's generation may have in the NEM, and the forecast cost of the CISA.</li> <li>This includes contribution of the Project to the target of 82% renewable energy by 2030, and consideration of any contribution to improving reliability.</li> <li>Assessment will consider a range of energy market scenarios to test Financial Value Bids for their ability to demonstrate value across a diverse range of future outcomes.</li> </ul>	<ul style="list-style-type: none"> <li>Completed returnable schedule, that includes key commercial terms.</li> <li>Technical information including: <ul style="list-style-type: none"> <li>COD Target Date</li> <li>Location of Project and network connection point</li> <li>Maximum Capacity and storage capacity (if applicable)</li> <li>Technology type</li> <li>Modelled generation traces</li> <li>Expected operational guarantee life</li> <li>Degradation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Projects with potential to receive higher dispatch weighted prices</li> <li>Projects with a relatively high ability to contribute to reducing wholesale electricity market prices.</li> <li>Projects with a relatively low forecast CISA cost. All else being equal, it is expected that the cost of a Project will be reduced if it includes: <ul style="list-style-type: none"> <li>Low Annual Revenue Floor</li> <li>Low Annual Revenue Ceiling</li> <li>Low Annual Payment Cap</li> </ul> </li> <li>Projects located in less constrained network locations with greater connection to load centres, particularly in high demand periods.</li> <li>Projects that generate in periods in which they can displace fossil fuel generation and contribute to meeting the target of 82% renewable energy by 2030.</li> </ul>

## Merit Criterion 6 – Commercial departures

This criterion will be used to assess the nature and extent of any commercial departures and the resulting risk-transfer from the proforma Project Documents, in particular the CISA.

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>Materiality of changes to risk allocation and additional administrative burden from what is set out in the proforma Project Documents.</li> </ul>	<ul style="list-style-type: none"> <li>Completed departures table (returnable schedule), including the reason for requesting each departure.</li> <li>Marked-up and clean version of the Project Documents in a form ready for acceptance, in both Word and pdf.</li> <li>If an Alternative Financial Value Bid is to be submitted, only the Bid variables in the Project Documents have been amended when compared to the Project Documents submitted as part of the default Financial Value Bid.</li> <li>Clean versions of the Project Documents in a form ready for execution by the Proponent (i.e. requiring no further changes, including parties' details and execution blocks) and will be considered capable of acceptance.</li> </ul>	<ul style="list-style-type: none"> <li>Bids which accept the pro forma with no changes to the Project Document risk allocation, i.e. minimal to no departures from the proforma Project Documents.</li> <li>If departures are proposed, they may be considered based on the nature and extent of the departure and its impact on: <ul style="list-style-type: none"> <li>the risk allocation to the Australian Government;</li> <li>the administrative burden and cost to the Australian Government; or</li> <li>consistency with the Australian Government's policy objectives.</li> </ul> </li> </ul>

Departures from the proforma Project Documents that materially increase risk and administrative burden to the Australian Government are not expected to be assessed as high merit. Departures should be limited to those critical to the Proponent's commercial or technical requirements. All cases should consider the impacts of changing the proposed risk and administrative position in the proforma Project Documents.

### Merit Criterion 7 – First Nations and social licence commitments

This criterion will be used to assess the quality of the Project's approach and strength of binding social licence commitments to improve First Nations economic and social outcomes, including economic participation for First Nations Groups, and regional economic development, including local supply chains and workforce.

The Social Licence Market Briefing outlines the expectation for First Nations and social licence commitments and provides examples of commitments that could demonstrate merit and support higher quality Bid responses.

**Projects in NSW** must provide commitments towards achieving the minimum requirements and/or stretch goals from the NSW RESB Plan. They will also need to demonstrate alignment to the NSW [First Nations Guidelines](#) regarding minimum requirements for economic participation by First Nations people and businesses and the goals and aspirations for local First Nations communities included in region-specific guidelines. Further details on NSW specific requirements will be provided in a Social Licence Market Briefing.

Proponents should consider any commitments made under this Merit Criterion 7 to be binding under the Default and Alternative Financial Value Bid.

#### First Nations commitments

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>Economic participation and/or financial commitments to be implemented by Proponents for First Nations communities.</li> <li>Strategies and processes in place to ensure that commitments will be achievable.</li> </ul>	<ul style="list-style-type: none"> <li>Commitments that provide economic benefits and empowerment for First Nations communities</li> <li>Commitments that consider and seek to address identified issues in the specific local community context and deliver economic and/or financial opportunities for the local First Nations community, as well as addressing any Project-specific adverse impacts within the First Nations communities.</li> <li>Strategies and activities to demonstrate how commitments will be achieved.</li> <li>Completed First Nations component of the MC7 returnable schedule that includes all First Nations commitments.</li> </ul>	<ul style="list-style-type: none"> <li>Commitments that have considered and incorporated feedback and interests in the design of the initiatives and are tailored specific to First Nations communities.</li> <li>Projects that demonstrate stronger commitments to First Nations communities (e.g. equity sharing, revenue sharing, employment and training opportunities etc.) may be found to be of higher merit.</li> </ul>

## Social licence commitments

What is assessed?	What is required?	What are we looking for?
<ul style="list-style-type: none"> <li>Social licence commitments to be implemented by Proponent within the Project's community.</li> <li>Strategies and processes in place to ensure that commitments will be achievable.</li> </ul>	<ul style="list-style-type: none"> <li>Social licence commitments that consider and seek to address identified issues in the specific local community context as well as addressing any project-specific adverse impacts within the local community.</li> <li>Strategies and activities to demonstrate how social licence commitments will be achieved.</li> <li>Completed components of the MC7 returnable schedule that include any: <ul style="list-style-type: none"> <li>Commitments to local employment, including skills and training and labour standards adopted.</li> <li>Commitments related to use of Local Content, including locally sourced materials and suppliers that support the development of Australian supply chains, including in renewable components and materials (includes assessment of pre-COD CAPEX and post-COD OPEX).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Commitments that have considered and incorporated community feedback and interests in the design of the initiatives and are tailored specifically to the local communities.</li> <li>Commitments to local employment and training, including the training of apprentices, as well as high labour standards.</li> <li>Commitments that demonstrate an understanding of Australian supply chains and Australian supply chain benefits.</li> <li>Bids that can demonstrate commitments similar to the objectives outlined in the NSW RESB Plan for supply chain, employment, skills and knowledge transfer, First Nations participation, and fair and ethical practices may be found to be of higher merit.</li> </ul>

### Note for Projects in NSW:

In accordance with Section 3.2 of the Tender Guidelines, Projects in NSW applying for a CISA must take into account the First Nations Guidelines and the NSW Renewable Energy Sector Board Plan when developing social licence commitments under Merit Criterion 7. Commitments towards achieving minimum requirements and/or stretch goals will be assessed against the requirements outlined in Table below based on considerations in the NSW Renewable Energy Sector Board Plan.

Bids that are not based in NSW are strongly encouraged, where practicable, to provide similar commitments as the minimum and stretch goals in the NSW RESB Plan outlined in Table 7.

**Table 7: For Projects in NSW - Minimum requirements and stretch goals related to MC7<sup>7</sup>**

Supply chain inputs criteria <sup>8</sup>	Minimum requirements			
	Wind	Solar	Pumped hydro	Battery storage
Before COD <sup>9</sup> – development and construction phase (% of total CAPEX)	40%	49%	66%	23%
After COD – operation and maintenance phase (% of total OPEX)	51%	71%	61%	35%
Steel product and components using locally milled steel (% of total Steel)	10%	95%	30%	95%
Supply chain inputs criteria	Stretch goals			
	Wind	Solar	Pumped hydro	Battery storage
Before COD – development and construction phase (% of total CAPEX)	72%	81%	86%	78%

<sup>7</sup> This section is based on the considerations in the NSW Renewable Energy Sector Board Plan.

<sup>8</sup> % for supply chain inputs refers to goods and services procured from in Australia & New Zealand as a percentage of the relevant metric indicated below.

<sup>9</sup> Includes all costs from project inception through to COD.

After COD – operation and maintenance phase (% of total OPEX)	76%	81%	82%	79%
Steel product and components using locally milled steel (% of total Steel)	95%			
Investment and innovation in the supply chain	Minimum requirement and stretch goal			
Commitment made to local supply chain, including for investment, innovation and environmentally sustainable procurement (cost in real AU\$)	For Tender Round 5, Proponents to make a voluntary but contractually binding commitment to investment and innovation.			
Employment, skills and knowledge transfer criteria	Minimum requirement		Stretch goal	
Learning workers <sup>10</sup> (% of Total Project workforce)	20%		40%	
Apprentices (% of all trades positions on a Project)	20%		30%	
First Nations participation criteria	Minimum requirement		Stretch goal	
First Nations participation (% of TPCV <sup>11</sup> )	1.5%		10%, or the goal in the region-specific protocol under the First Nations Guidelines.	
Fair and ethical practice criteria	Minimum requirement		Stretch goal	
Employment of underrepresented groups <sup>12</sup> (% of Total Project workforce <sup>13</sup> )	15%		25%	
Environmentally sustainable procurement criteria				
Numerical minimum requirements do not apply. Proponents are required to respond to evidence requirements to demonstrate environmentally sustainable procurement. This includes:				
<ul style="list-style-type: none"><li>• Alignment with NSW Net Zero Plan.</li><li>• Alignment with NSW Circular Economy Policy Statement.</li><li>• Sourcing materials according to EN15804, Green Building Council’s or other appropriate sustainability framework.</li></ul>				

<sup>10</sup> Note: as defined in the NSW Renewable Energy Sector Board Plan, a "learning worker" is a worker without qualifications or who needs to update their qualifications or skills to meet the needs of the infrastructure project. This includes trainees and apprentices. Once defined as a learning worker, the worker maintains this status for the duration of the project. All workers on a project who undertake accredited training count towards the learning worker requirement, not just construction workers. The project workforce includes all people who contribute to the project. This includes people such as managers, engineers, finance team, environmental team, safety team, construction employees consisting of supervisors, those in leadership roles, tradespeople and operators. People who undertake training organised by the contractor prior to employment are counted as learning workers only if they are employed on the project. Training must be accredited vocational education and training (VET) or nationally recognised professional qualifications that meet the needs of the project and can be full or part qualifications (such as one or more units of competency). It may be subsidised by government funding or through a fee-for-service arrangement. Participants in the NSW Government Trade Pathways Program are to be included as learning workers and count towards achievement of this outcome.

<sup>11</sup> The TPCV should be calculated as the sum of "total capital expenditure (CAPEX) amount of the Project" and "total operational expenditure (OPEX) amount over the life of the Project in relation to the Project" as calculated in the MC7 IAPP Returnable Schedule. As the social licence IAPP will become contractually binding on award, TPCV will be a defined term that is contractually enforceable in the relevant Project Documents.

<sup>12</sup> Underrepresented groups include people with characteristics defined in the Anti-discrimination Act 1977 (NSW) and people who are long-term unemployed in addition to young people and women.

<sup>13</sup> Means the total working hours that the Proponent will engage to deliver the Project, calculated as the number of FTE days the Proponent will engage to deliver the Project over the term multiplied by 7.6 hours. As the social licence commitments IAPP will become contractually binding on award, TPW will be a defined term that is contractually enforceable in the relevant Project Documents.

# 4 Tender Conditions

## Compliance with Tender Conditions

The Tender Process is undertaken subject to these Tender Guidelines (including the Tender Conditions outlined in this Section 4).

Unless otherwise expressly provided in these Tender Guidelines, or notified by the Australian Government, AEMO may exercise all rights and discretions and discharge any obligation of the Australian Government under these Tender Guidelines, other than the decision for the Australian Government to select a Successful Proponent with which to enter into Project Documents. Those rights, discretions and obligations include a number of important requirements in relation to the receipt and evaluation of Bids, including rights to:

- accept, reject or refuse to consider any Bid that does not comply with the requirements of these Tender Guidelines or the terms of the Project Documents, or which is incomplete;
- accept, reject or refuse to consider any registration lodged after the Registration Closing Date and Time, any Project Bid lodged after the Project Bid Closing Date and Time and/or any Financial Value Bid lodged after the Financial Value Bid Closing Date and Time (as applicable);
- provide responses to Proponent questions, including responses that clarify the Tender Process or these Tender Guidelines; and/or
- require a Proponent to address probity issues.

Proponents must ensure that all information (including their Bids) which they submit in response to these Tender Guidelines is complete, accurate, adequate and current and must not provide false or misleading information. If a Proponent is unable to provide the required information pursuant to these Tender Guidelines, this must be expressly set out in its Bid and the reasons given. Tenderers are required to advise the Australian Government and AEMO if there is a change to any information previously provided by them to the Australian Government or AEMO in, or in relation to, their Bid.

Bids must:

- be in English;
- be submitted in accordance with any format requirements specified in relevant Returnable Schedules;
- be priced in Australian dollars and all pricing must be GST exclusive; and
- use Microsoft Word .docx and Excel .xlsx formats when Word and Excel Returnable Schedules are to be submitted and, where specified in these Tender Guidelines, pdf format.

## Additional instructions or materials

The Australian Government or AEMO may issue additional instructions or materials such as Addenda, Returnable Schedules, guidance notes or legal documentation (including the Project Documents) ahead of the relevant Project Bid Closing Date and Time or the Financial Value Bid Closing Date and

Time (as applicable). These additional instructions or materials may be issued at the absolute discretion of AEMO and the Australian Government.

### **Other considerations**

In addition to the Proponent's responses provided in the Online Portal and the Returnable Schedules, the following matters may be taken into account during the assessment of Bids:

- during the phase identified in [Section 2.4](#), any matters that are revealed as a result of the Australian Government's or AEMO's own investigations or analyses in assessing the Bids;
- elements of a Proponent's response to one Merit Criterion when assessing another Merit Criterion. This includes the consistency of the Proponent's Bid with the information provided in its response; and
- the Proponent's continuing compliance with the Eligibility Criteria and any re-assessment of any or all Merit Criteria.

## **4.1 Application and agreement to comply with these Tender Guidelines**

By taking part in the Tender Process and by executing the Process Deed Poll, the Proponent agrees to be bound by, and agrees to ensure that (as applicable) its Associates act in accordance with) these Tender Guidelines. To the extent that the Proponent or any of its Associates does not agree to be bound by these Tender Guidelines, the relevant entity or person must not take any further part in the Tender Process. Proponents that do not agree to be bound by these Tender Guidelines will not be permitted to submit Bids.

Participation by a Proponent and its Consortium Members in the Tender Process is subject to the Proponent complying, and ensuring that (as applicable) its Associates comply, with these Tender Guidelines.

All persons (whether or not they submit a Bid) who obtain these Tender Guidelines may only use this document and the information contained in it in compliance with these Tender Guidelines.

By taking receipt of the Tender Guidelines and participating in the Tender Process a Proponent is deemed to accept, acknowledge and agree, and by executing the Process Deed Poll, a Proponent expressly agrees:

- a. to comply with and be bound by these Tender Guidelines;
- b. to comply with all applicable Laws;
- c. that information provided to the Australian Government and/or AEMO during the Tender Process is for the benefit of the Australian Government; and
- d. to ensure that it and its Associates, comply with these Tender Guidelines.

These Tender Guidelines apply to:

- a. other information given, received, or made available arising from or in connection with these Tender Guidelines and/or the Tender Process, including any Addenda;

- b. the Tender Process and the participation of each Proponent and its Associates in the Tender Process; and
- c. any communications, including any presentations, meetings or negotiations (whether before or after the release of these Tender Guidelines), relating to these Tender Guidelines or the Tender Process.

The Tender Guidelines apply for the benefit of the Australian Government and AEMO.

In addition to any other remedies available to the Australian Government or AEMO under Law, contract, the Tender Process or these Tender Guidelines, any failure by the Proponent or any of its Associates to comply with any Law, contract, the Tender Process or these Tender Guidelines will, in the absolute discretion of the Australian Government or AEMO, and without limitation, entitle the Australian Government or AEMO to terminate the participation (or further participation) of the relevant Proponent or Associate(s) in the Tender Process.

## 4.2 Interpretation

Except to the extent the context requires otherwise, in these Tender Guidelines:

- a. 'includes' in any form is not a word of limitation;
- b. the meaning of 'or' will be that of the inclusive 'or', meaning one, some or all of a number of possibilities;
- c. headings are for convenience only and do not affect interpretation;
- d. the singular includes the plural, and the plural includes the singular;
- e. if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- f. a reference to a person includes a natural person, a firm, a company, a corporation, a body corporate, a trust, a partnership, an unincorporated body or association or a government agency and any successor entity to those persons;
- g. a reference to a time is to Australian Eastern Standard Time (AEST), unless specified otherwise (e.g. as Australia Eastern Daylight Time (AEDT));
- h. a reference to a party in the Tender Guidelines or another agreement or document includes that party's successors, permitted substitutes and permitted assigns (and, when applicable, the party's legal or personal representatives);
- i. a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and all legislation, regulations, rules or statutory instruments under it as they may be so modified, re-made or substituted;
- j. a reference to a Government agency includes any relevant successor (no matter how constituted) of the Government agency under a machinery of government change or that is performing any relevant function or responsibility that is or was performed at any relevant time by the Government agency.
- k. if the Proponent comprises more than one person or is a consortium, the obligations and Liabilities of the Proponent, under the Tender Guidelines including Tender Conditions or under the Process Deed Poll, apply to the Proponent and each Consortium Member jointly and severally;
- l. no rule of interpretation applies to the disadvantage of the Australian Government or AEMO on the basis that the Australian Government or AEMO put forward the Tender Guidelines and/or

- the Process Deed Poll or because the Australian Government or AEMO is seeking to rely on a provision contained in the Tender Guidelines and/or the Process Deed Poll;
- m. if the Tender Guidelines or the Process Deed Poll purports to exclude Liability for a particular matter, such exclusion only operates to the extent permitted by Law;
  - n. the Australian Government may give, modify, withhold, withdraw, make or exercise any action, approval, consent, decision or discretion or other function under the Tender Guidelines at the Australian Government's absolute discretion and at any time and without any liability to any Proponent or prospective Proponent; and
  - o. a reference to the Australian Government or to AEMO includes (when applicable) their officers, employees, servants, agents, contractors, consultants, nominees, licensees or advisers.

### **4.3 Not an offer**

The Proponent acknowledges and agrees, and must ensure that its Consortium Members, and their Related Bodies Corporate (if any), and any Bid Entity acknowledge and agree, that these Tender Guidelines:

- a. are not an offer and, in particular, are not an offer to enter into any Project Document or other contract with any recipient of these Tender Guidelines;
- b. are only an invitation for persons to submit a Project Bid and, if applicable, a Financial Value Bid; and
- c. must not be construed, interpreted or relied upon, whether expressly or impliedly, as an offer capable of acceptance by any person.

Subject to the operation of [Section 4.1](#) and the Process Deed Poll, neither these Tender Guidelines, nor a Bid submitted by a Proponent, has any contractual effect in relation to any person proceeding with any Project or the Australian Government entering into the Project Documents with any person, and does not create any contractual, promissory, restitutionary or other legal rights.

The Australian Government and AEMO are under no obligation to complete the Tender Process outlined in these Tender Guidelines or to recommend or accept a Bid or a Project. The Australian Government or AEMO may change the process, or the description of the requirements outlined in these Tender Guidelines by issuing an Addendum.

To the extent permitted by Law, the Australian Government or AEMO will not under any circumstances be liable for any costs incurred by any person (including Proponents, Consortium Members or its or their respective Associates) arising from or in connection with or relating to considering these Tender Guidelines or the Tender Documentation, preparing and submitting a Bid or otherwise participating in the Tender Process.

### **4.4 Liability**

Except as otherwise expressly provided in the Tender Guidelines or non-excludably provided by Law, no Proponent, Consortium Member or its and/or their respective Associates are entitled to make any

Claim against the Australian Government or AEMO for any Liability incurred by any one or more of them arising out of, or in connection with:

- a. the Tender Guidelines (including the exercise or non-exercise of any discretion by the Australian Government or AEMO under the Tender Guidelines or any alleged representation contained in the Tender Guidelines);
- b. the Tender Process, or their participation in it, or the conduct of the Tender Process by the Australian Government or AEMO, in any respect;
- c. the submission of (or failure to submit or decision not to submit) a Bid;
- d. the Australian Government's or AEMO's evaluation of, or decision not to evaluate, a Bid, including any decision not to invite submission of a Financial Value Bid;
- e. the Australian Government's selection of, or decision not to select, any Bid or Project to enter into any Project Documents;
- f. any omission from or inaccuracy in these Tender Guidelines or any Disclosed Information, or any failure to disclose information;
- g. any inspections of any site related to a Project;
- h. the granting (or not granting) of any Approvals required or desired in relation to the Project (including in connection with any delay in progressing or securing any such Approval); or
- i. the making (or not making) of any recommendation by AEMO or any decisions by the Australian Government in respect of any Proponent, Consortium Members or their respective Associates, Bids or Projects.

The Proponent must indemnify, and must keep indemnified on demand, the Australian Government and AEMO from and against any Claim or Liability suffered or incurred by the Australian Government or AEMO arising out of, or in connection with:

- a. any breach by the Proponent or its Associates of the Tender Guidelines, including a failure to comply with the Tender Guidelines or any breach of a representation or warranty given by any of them pursuant to the Tender Guidelines;
- b. any Claim brought by the Proponent or any of its Associates against the Australian Government or AEMO or any of their respective Associates with respect to any of the matters or events identified in this [Section 4.4](#); or
- c. (if applicable) any site inspection to the extent that the relevant Claim or Liability is caused by the act or omission, including any negligence of, the Proponent, a Consortium Member or any of its or their respective Associates, including Arms' Length Associates.

Without limiting the foregoing, the Proponent represents and warrants that it and its Associates will have no Claim, and will not bring any Claim, against the Australian Government or AEMO arising from or in connection with the exercise or the failure to exercise the rights or discretions of the Australian Government or AEMO consistent with the rights and discretions set out in these Tender Guidelines including the Australian Government or AEMO's rights to vary, suspend or not proceed with all or any part of the Tender Process or not to enter into a contract with any Proponent.

The Proponent acknowledges and agrees, and must ensure that its Consortium Members, its and their Related Bodies Corporate (if any) and any Bid Entity acknowledge and agree, that the Australian Government and AEMO have relied on the representation and warranty set out above in deciding whether to consider a Bid.

## **4.5 No warranty**

Except to the extent otherwise required by Law, neither the Australian Government nor AEMO:

- a. makes any warranties or representations (express or implied), or assumes any duty of care, or accepts any Liability, with respect to the completeness, accuracy, adequacy or currency of the Tender Guidelines or the Disclosed Information;
- b. makes any warranty or representation as to the exercise or non-exercise of any executive or statutory discretion, right or power in connection with the Tender Guidelines, the Tender Process, any Project or any Bid; or
- c. accepts responsibility or is liable in any way for any Liability of whatever kind (whether foreseeable or not) however arising (including by reason of negligence or default), incurred by any person in connection with the Tender Guidelines, Tender Process, any Project, any Disclosed Information, in preparing any Bid, or in the conduct of, participation in or outcome of the Tender Process.

## **4.6 No representations**

No representation made by or on behalf of the Australian Government or AEMO in relation to the Tender Process or its subject matter will be binding on any one or more of those parties unless that representation is expressly incorporated into any final Project Documents entered into in respect of the Project.

## **4.7 Compliance with protocols**

The Proponent must, and agrees to procure that each of its Associates (including its Arms' Length Associates) does, comply with any and all protocols and procedures in relation to any data room, meetings, presentations, workshops, question and answer processes, or any other aspect of the Tender Process as set out in these Tender Guidelines or otherwise advised by the Australian Government or AEMO consistent with these Tender Guidelines.

## **4.8 Confidentiality**

Unless publicly disclosed on a website operated by the Australian Government or AEMO related to the Tender Process, all Disclosed Information is confidential information of the Australian Government and AEMO.

The Disclosed Information is provided solely to enable Proponents, Consortium Members and its or their Associates to consider the opportunity and to prepare and submit Bids.

The Proponent must, and must ensure that each Consortium Member and its or their Associates agree to:

- a. only disclose Disclosed Information to a person who has a need to know (and only to the extent that each has a need to know) that Disclosed Information for the Permitted Purpose;
- b. not use the Disclosed Information for any purpose whatsoever except the Permitted Purpose; and
- c. keep strictly confidential all Disclosed Information (subject to disclosure permitted under this clause).

The obligations of confidentiality under this [Section 4.8](#) do not apply to the Proponent and each Consortium Member (and each of its or their Associates) to the extent that:

- a. prior to disclosure by the Australian Government or AEMO, the relevant Disclosed Information was rightfully known to and in the possession or control of that person and not subject to an obligation of confidentiality on that person; or
- b. that person is required by Law to disclose the relevant Disclosed Information, provided that that person:
  - i. promptly gives notice to the Australian Government and AEMO; and
  - ii. makes disclosure on terms which preserve the confidentiality of the Disclosed Information to the greatest extent possible.

The Proponent must, and must ensure that its Associates agree to:

- a. ensure, at all times, that each person to whom Disclosed Information has been disclosed in accordance with this [Section 4.8](#) complies with the requirements of confidentiality in these Tender Guidelines;
- b. promptly notify the Australian Government or AEMO if it becomes aware of a suspected or actual breach of this [Section 4.8](#) or any unauthorised disclosure or use of the Disclosed Information; and
- c. promptly take all reasonable steps to prevent or stop any such suspected or actual breach or unauthorised disclosure or use.

A Proponent must not, and must ensure that each of its Associates do not, disclose Disclosed Information to any person who is involved with a Competing Proponent.

At any time, the Australian Government or AEMO may request the Proponent, the Consortium Members or any of its or their respective Associates to enter into a confidentiality agreement or deed in respect of any specific Disclosed Information in a form and substance determined by the Australian Government or AEMO in its sole and absolute discretion. In that case, the Proponent must, and must ensure that its relevant Associate do, enter into that agreement or deed within ten (10) Business Days after being requested to do so. If they do not do so, they may be excluded from further involvement in this Tender 1 Process.

## **4.9 Intellectual Property Rights**

Unless otherwise indicated in these Tender Guidelines, the Australian Government or AEMO (as applicable) own such IP Rights as may exist in these Tender Guidelines and the Disclosed Information. Proponents, Consortium Members and its or their respective Associates are permitted to use and copy these Tender Guidelines and the Disclosed Information for the sole purpose of considering the opportunity set out in this Tender 1 Process and preparing and submitting a Bid.

Upon submission of any Bid documents in this Tender 1 Process, each physical or electronic Bid document and any media on which they are contained becomes the property of the Australian Government. A Proponent (or other relevant person) will retain ownership of any IP Rights contained in each Bid Document it submits. The submission of a Bid document does not transfer to the Australian Government or AEMO any ownership interest in the Proponent's IP Rights, or give the Australian Government or AEMO any IP Rights in relation to the relevant Bid document, except as

expressly set out below. Neither the Australian Government nor AEMO will return any Bid documents, or any media on which they are contained (or any copies that are made), to Proponents.

By submission of a Bid, the Proponent grants, and must ensure that each relevant Associate grants, to the Australian Government and AEMO an irrevocable, perpetual, non-exclusive, transferable, worldwide, free-of-charge licence to use, reproduce, develop, communicate, modify and/or sub-license the whole or any part of any Bid for the purposes of:

- a. evaluating and negotiating Bids, supporting the Australian Government's and AEMO's due diligence and strategic risk-assessment for the Tender Process, and otherwise facilitating the competitive tender pursuant to the Tender Process;
- b. providing generalised learnings and improvements to any future tender processes, including any tender guidelines and other tender documentation, on a de-identified basis;
- c. provision to a person to the extent necessary in connection with an exercise of rights contained in these Tender Guidelines;
- d. provision to any Commonwealth Entity or government authority, when this serves the Commonwealth's legitimate interests, including to the Australian National Audit Office;
- e. provision to the officers, employees, agents, contractors, legal and other advisers and auditors (as applicable) of the entities set out in the preceding paragraphs; and
- f. making any other disclosure that is permitted by [Section 4.20](#) of these Tender Guidelines.

The Proponent warrants that it and each relevant Associate has the authority to grant the licence contemplated in this [Section 4.9](#) and the exercise by the Australian Government or AEMO, or any person authorised by it or them, consistent with, or as contemplated by, the Tender Guidelines, will not infringe the IP Rights, moral rights or any other rights of any person. The Proponent must indemnify the Australian Government and AEMO against any Liability or Claim incurred or received by the Australian Government or AEMO arising from any breach of the warranty in this [Section 4.9](#).

Further, in submitting any Bid, the Proponent accepts that the Australian Government or AEMO may, consistent with the requirements of applicable policy, publish (on the internet or otherwise):

- a. the name of the successful or recommended Proponent(s);
- b. the value of the successful Bids; and
- c. the Proponent's name together with the provisions of the Project Documents generally.

Proponents must ensure that they have obtained the necessary permissions to grant the above authority to the Australian Government and AEMO, including from any persons who may have moral rights in respect of any part of a Bid.

## **4.10 Others to be bound**

A Proponent must ensure that each of its Associates to which or whom these Tender Guidelines and/or any Disclosed Information or which or who participate in the Tender Process, agrees to be bound by the Tender Guidelines and complies with these Tender Guidelines.

## **4.11 Continuing obligations**

The obligations of a Proponent under (and of each Associate arising from) these Tender Guidelines survive the termination or expiration of the Tender Process and the Project.

## **4.12 Illegible content, alteration and erasures**

Incomplete Bids may be disqualified or evaluated solely on the information contained in the Bid. The Australian Government or AEMO may disregard any content in a Bid that is illegible and will be under no obligation whatsoever to seek clarification from the Proponent.

The Australian Government or AEMO may permit a Proponent to correct an unintentional error in their Bid if that error becomes known or apparent after the relevant Closing Date and Time, but in no event will any correction be permitted if AEMO or the Australian Government reasonably considers that the correction would materially alter the substance of the Proponent's Bid.

## **4.13 Requests for clarifications and further information**

If a person:

- a. finds any discrepancy or error in, or has any doubt as to the meaning or completeness of, these Tender Guidelines, the Disclosed Information or the Tender Process, they must; or
- b. requires clarification on any aspect of these Tender Guidelines, the Disclosed Information or the Tender Process, they may,

notify AEMO in writing through the process described in [Section 4.39](#). If paragraph a. applies, that notice must be provided as soon as reasonably practicable after that discrepancy, error or doubt as to meaning or completeness is discovered and in any event not less than five (5) Business Days prior to the Project Bid Closing Date and Time (during the Project Bid preparation stage) or Financial Value Bid Closing Date and Time (during the Financial Value Bid preparation stage).

AEMO or the Australian Government may make identified questions and clarifications available to all Proponents in accordance with [Section 4.39](#). AEMO or the Australian Government may also publish an Addendum to all Proponents at any time including to clarify the discrepancy, error, doubt or query (as the case may be) and may extend the Tender Registration Closing Date and Time and/or any relevant Closing Date and Time if AEMO or the Australian Government, in their absolute discretion, consider it appropriate in all the circumstances.

The Australian Government and AEMO reserve their rights not to respond to any question or request, irrespective of when it is received.

No representation or explanation to Proponents or the Consortium Members as to the meaning of these Tender Guidelines, or as to anything to be done or not to be done by the Proponent in each case by the Australian Government or AEMO, will be taken to be included in these Tender Guidelines or Tender Process, unless it is contained in an Addendum.

### **Meetings with the Australian Government and/or AEMO**

Notwithstanding the above, the Australian Government or AEMO may invite a Proponent, or any of its Associates, to attend meetings with the Australian Government or AEMO or an Authority during the Tender Process to discuss issues arising in relation to the preparation of a Bid, the Project or the Tender Process, including for the purpose of maximising the benefits of the Tender Process as measured against the Eligibility Criteria and Merit Criteria set out in these Tender Guidelines or to fully understand a Proponent's Bid including risk allocation. In its absolute discretion, the Australian Government or AEMO may invite some or all of the Proponents to give a presentation to the Australian Government and AEMO in relation to their Bids.

The Australian Government and AEMO are under no obligation to undertake discussions with, or to invite any presentations from, Proponents.

If the Australian Government or AEMO requests a meeting (whether the meeting is with the Australian Government, AEMO or an Authority):

- a. the Australian Government or AEMO may prepare an agenda of items to be discussed;
- b. the meetings will be conducted consistent with all probity and other procedures and protocols advised by the Australian Government or AEMO from time to time;
- c. the Australian Government or AEMO may decline to discuss any or all issues raised by the Proponent or any of its Associates; and
- d. questions and responses at any meeting may be recorded in writing or by any other means by or on behalf of the Australian Government or AEMO, copies of which may only be provided to the Proponent at the Australian Government's or AEMO's absolute discretion.

Except to the extent that these Tender Guidelines specify to the contrary, information provided at any time by or on behalf of the Australian Government to the Proponent any of its Associates may also be provided by or on behalf of the Australian Government to a Competing Proponent and will be provided by or on behalf of the Australian Government to all Competing Proponents if that is necessary to ensure fairness.

Nothing that occurs, and no information that is provided, at a meeting may be relied on by the Proponent or its Associates unless subsequently confirmed in writing by the Australian Government or AEMO.

### **Clarification of a Bid**

The Australian Government or AEMO may seek clarification and information from and enter into discussions with any or all of the Proponents (including a shortlist of Proponents) in relation to any of their Bids including any technical, financial, corporate or legal components of the Bids. The Australian Government and AEMO may use such clarification and information received in interpreting a Bid and evaluating the cost and risk to the Australian Government of accepting the relevant Bid. Failure to supply clarification or information to the satisfaction of the Australian Government and AEMO may render a Bid liable to disqualification.

The Australian Government and AEMO are under no obligation to seek clarification of (or information regarding) anything in a Bid and each of the Australian Government and AEMO reserve the right to disregard any clarification and information that the Australian Government and AEMO

considers to be unsolicited or otherwise impermissible consistent with the rules set out in these Tender Guidelines.

### **Authority to Seek Further Information**

By submitting a Bid, the Proponent:

- a. agrees that the Australian Government and AEMO may (and consents to and authorises each of the Australian Government and AEMO to) undertake due diligence, investigations, seek further information about, and enquire into, the Proponent and any of its Associates, the proposed Project, any Bid submitted as part of the Tender Process including its or their financial position and any claims made in a Bid regarding the Project or the capability and experience of the Proponent and its Associates (including from any Government Agency) and acknowledges that any additional information may be taken into account in the evaluation of Bids (including as described in [Section 2.4](#));
- b. agrees that the Australian Government and AEMO may, and consents to and authorises each of the Australian Government and AEMO to, undertake investigations, seek further information about, and enquire into the status of the network connection process, Generator Performance Standard (GPS) Compliance and technical information with AEMO or relevant network service provider, the Australian Government may ask AEMO to assess the portfolio impact of Projects on the network through detailed power systems modelling, consents to AEMO providing such information for the purposes of section 54B of the National Electricity Law, and acknowledges that any additional information obtained may be taken into account in the evaluation of Bids (including as described in [Section 2.4](#)); and
- c. acknowledges and agrees that the Proponent will have no claim against the Australian Government and its Associates in defamation, or otherwise, with respect to any matter arising out of the provision or receipt of information by the Australian Government and/or AEMO to or from, any other Territory, State or Commonwealth government agency for the above purposes.

### **Prohibited Conduct**

Proponents must not, and must ensure that their respective Associates do not:

- seek or obtain the assistance of the Australian Government or AEMO (or any person who has been an Associate of the Australian Government or AEMO within the 12 months prior to the Registration Date) in the preparation of a Bid (other than as permitted under these Tender Guidelines or approved in writing by the Australian Government); or
- lobby the Australian Government or AEMO or otherwise take actions to influence the outcome of this Tender 1 Process (other than as permitted under these Tender Guidelines).

In addition to any other remedies available to it under Law or contract, the Australian Government or AEMO may, in its or their absolute discretion, disqualify a Proponent or any of its Associates, that it believes has improperly sought or obtained such assistance or engaged in such activity.

## **4.14 Conflict of Interests**

### **Primary obligation in relation to conflict of interests and notification requirements**

A Proponent must not, and must ensure that its Associates do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interests during the Tender

Process. Without limitation, a conflict of interests will be considered to arise if the Proponent or any of its Associates, without the written approval of the Australian Government or AEMO, obtains advice, assistance or information from a person who is currently advising, or has previously advised:

- a. the Australian Government or AEMO in respect of the CIS or the Tender Process or any related matters; or
- b. a Competing Proponent in respect of the Tender Process, its Bid or any Project that is or is intended to be the subject of its Bid.

Subject to and in accordance with [Section 4.39](#), all notifications required to be made by Proponents or their Associates (as applicable) to the Australian Government and AEMO under this [Section 4.14](#) or otherwise in relation to an actual, potential or perceived conflict of interests relating to the Tender Process or Project, must be made using, and consistent with, the conflict of interests form made available to registered Proponents on the Online Portal.

If, in respect of a Proponent, its Consortium Members or their Bids or Projects, any:

- a. actual, potential or perceived conflict of interests in respect of the Tender Process, a Bid or a Project arises or is discovered; or
- b. fact, matter or thing which may have an adverse effect on the Tender Process, or which may affect the probity or perception of probity in respect of the Tender Process

the Proponent or Consortium Member, as relevant, must:

- c. promptly notify the Australian Government and AEMO of the actual, potential or perceived conflict of interests or adverse effect;
- d. provide sufficient detail to the Australian Government, AEMO and the Probity Advisor as to the nature and extent of the actual, potential or perceived conflict of interests or adverse effect, including any information reasonably requested by the Australian Government or AEMO in relation to that conflict of interests or adverse effect; and
- e. take any steps that the Australian Government or AEMO reasonably require to address that conflict of interests or adverse effect.

### **Conflict of interests between Competing Proponents**

Each Proponent:

- a. confirms, in relation to their Bids or Projects, that, except as may be consented to by AEMO or the Australian Government in writing (either conditionally or unconditionally and at their absolute discretion), the Proponent and each of its Associates (as applicable) is not and must not become:
  - i. a member of, or otherwise be involved with, a Competing Proponent or Consortium Member of a Competing Proponent; or
  - ii. an Associate of the Australian Government or involved with the Australian Government or AEMO,in each case in respect of the Tender Process; and
- b. undertakes to promptly notify AEMO if:
  - i. it receives confidential information of a Competing Proponent or Consortium Member or Associate of a Competing Proponent (such notice to include the nature and extent of the confidential information);

- ii. it becomes involved with a Competing Proponent or Consortium Member of a Competing Proponent or becomes an Associate of the Australian Government in respect of the Tender Process;
- c. warrants that no actual, potential or perceived conflict of interests has arisen or will arise in respect of the Proponent or its Associates in respect of the Tender Process; and
- d. acknowledges and agrees that the Australian Government or AEMO has the right to exclude the Proponent and/or any of its Associates from the Tender Process if any of them does not comply with this [Section 4.14](#).

#### **Conflict of interests regarding Associates**

In addition to the primary obligation on Proponents above in this [Section 4.14](#), the Australian Government or AEMO may, at any time during a Proponent's participation in the Tender Process, request a list of any or all of a Proponent's current Associates, including Arms' Length Associates, and the Proponent must provide the list or lists requested within two (2) Business Days after receipt of any such request from the Australian Government or AEMO.

The Proponent acknowledges and agrees, and must ensure that its Associates acknowledge and agree, that the Proponent, and its Associates must not be an Associate of:

- a. a Competing Proponent;
- b. a Consortium Member of a Competing Proponent ; or
- c. the Australian Government or AEMO,

unless:

- d. the Proponent has first notified the Australian Government and AEMO of that fact;
- e. the Proponent has received written consent from the Australian Government or AEMO (either conditionally or unconditionally and at their absolute discretion) to the relevant person being an Associate for both the Proponent or a Consortium Member and for the Competing Proponent, Consortium Member or the Australian Government or AEMO (as applicable);
- f. the Proponent has provided written confirmation to the Australian Government and AEMO that all necessary protocols are in place in relation to information and personnel separation and ringfencing (for example, information barriers) that would reasonably be expected for persons participating in a competitive tender process of this nature (Conflict Protocols); and
- g. the Australian Government and AEMO has confirmed that such Conflict Protocols have been implemented by the relevant parties to the satisfaction of the Australian Government and AEMO.

If at any time the Australian Government or AEMO rejects the Conflict Protocols, or the affected Proponent and/or its Associate fails to observe such agreed arrangements, then the Australian Government and AEMO reserve the right (without limitation to any other discretion or action) to terminate the Proponent's or Associate's further participation in the Tender Process.

#### **Conflict of interests between the Australian Government and a Proponent**

In addition to the primary obligation on Proponents and Associates above in this [Section 4.14](#), a Proponent (in relation to its Bid or Project) must promptly notify the Australian Government and AEMO if it is aware of any relationship the Proponent or any of its Associates may have with any

entity involved or connected with the Project or the administration of the Tender Process, or any experts, consultants or advisers appointed by the Australian Government or its Associates for the purposes of the Tender Process.

The Australian Government may, in its absolute discretion, decide not to evaluate (or not continue to evaluate) a Bid of a Proponent if the Australian Government believes that the Bid was prepared (in whole or in part), or was otherwise assisted by a person if that person:

- a. is or was an Associate of, or was otherwise engaged by, the Australian Government at any time after, or during the 12 months immediately preceding, the Registration Date; or
- b. is or was involved in the management of the Tender Process, or the preparation of any of the Tender Documentation or Project Documents, at any time.

Before the Project Bid Closing Date and Time, a Proponent may request permission from the Australian Government or AEMO to have a person described above contribute to or participate in the Tender Process and/or preparation of its Bid. If a Proponent makes such a request, the Australian Government may, in its absolute discretion, at any time:

- a. grant permission, whether with or without such conditions as the Australian Government or AEMO thinks fit; or
- b. refuse permission.

#### **Industry Members of AEMO**

Notwithstanding anything to the contrary in these Tender Guidelines, the fact that a Proponent or any of its Associates is an industry member of AEMO will be ignored for the purpose of determining whether an actual, potential or perceived conflict exists between the interests of the Australian Government or AEMO and the interests of a Proponent or its Associates during the Tender Process.

## **4.15 No anti-competitive conduct**

Proponents must not, and must ensure that their respective Associates do not, engage in any collusion, anti-competitive conduct or any other similar conduct with any other person in relation to:

- a. any aspect of the Project;
- b. the preparation or submission of a Bid or the Bid of a Competing Proponent;
- c. the evaluation and clarification of a Bid or the Bid of a Competing Proponent; or
- d. the conduct of negotiations between the Australian Government and the Proponent or a Competing Proponent,

in each case in respect of the Tender Process.

For the purposes of this [Section 4.15](#), collusion, anti-competitive conduct or any other similar conduct may include access (or seeking access) to, or disclosure, exchange or clarification of, information related to this Tender 1 Process to the Australian Government or AEMO, any Competing Proponent or Consortium Member or any person or organisation.

Without limiting the foregoing, the Proponent acknowledges and agrees, and must ensure that its Associates acknowledge and agree, that it or they must not attempt to obtain any advantage for itself or themselves, or for any other person or entity, by:

- a. seeking information in relation to the Tender Process other than through the means set out in the Tender Guidelines; or
- b. attempting to influence the Australian Government or AEMO in relation to the Tender Process through any means apart from communications consistent with the Tender Guidelines.

In addition to any other remedies available to it under Law or contract, the Australian Government or AEMO may, in their absolute discretion, disqualify a Proponent or any of its Associates if that Proponent or Associate (as applicable) has engaged in any collusion, anti-competitive conduct or any other similar conduct in respect of the Tender Process.

## **4.16 Submitting a Bid**

A Bid must meet the requirements for submission set out in these Tender Guidelines.

## **4.17 Change to Proponent structure and Consortium Members**

The Proponent must notify AEMO promptly in writing of any change in:

- a. the structure or ownership of a Proponent, including any Consortium Member or Bid Entity (excluding changes in ownership of a listed entity);
- b. the appointment, termination or replacement of a Proponent, Consortium Member or Bid Entity (and such notice must include details of the nature of the appointment, termination or replacement as applicable); or
- c. the scope or terms of the appointment of a Proponent, Consortium Member or Bid Entity.

All notifications required to be made by Proponents to AEMO under this [Section 4.17](#) or otherwise in relation to a change in any of the matters referred to in the previous paragraph must be made using, and consistent with, the General Notification Form available to registered Proponents on the Online Portal.

Upon receipt of any notice pursuant to this [Section 4.17](#), the Australian Government or AEMO reserve the right (without limitation to any other discretion or action) to:

- a. require the relevant parties to enter into a document acknowledging that it or they are bound by and undertake to comply with these Tender Guidelines or to take any further action required by the Australian Government or AEMO;
- b. assess the relevant change in circumstances and elect to terminate the Proponent's or any Consortium Member's further participation in the Tender Process; and/or
- c. invite the Proponent to amend its Bid accordingly.

Without limiting the above, following submission of the Project Bid, changes to any of the matters referred to in the first paragraph of this [Section 4.17](#) must not be made without notifying the Australian Government or AEMO and obtaining their prior written consent to continue to participate in the Tender Process.

## **4.18 Material disclosures**

The Australian Government and AEMO have received (and will continue to receive) advice and/or assistance in relation to these Tender Guidelines, the Tender Process and the Project:

- a. in the case of AEMO, from its consultants and advisers and such other consultants and advisers as may be advised from time to time by AEMO on its website or by direct communication to Proponents; and
- b. in the case of the Australian Government, from AEMO and from the Australian Government's and AEMO'S consultants and advisers and such other consultants and advisers as may be advised from time to time by the Australian Government on its website or by direct communication to Proponents.

These parties are likely to be involved in assisting the Australian Government to assess Bids.

The Proponent acknowledges and agrees, and must ensure that each of its Associates acknowledges and agrees, that it has or they have been made aware of the matters outlined in this [Section 4.18](#).

## **4.19 Proponents to perform own due diligence**

The Proponent must, and must ensure that its Consortium Members do, carry out all relevant investigations, make their own review and evaluation, and examine and acquaint themselves in respect of the following matters (as relevant to each of them):

- a. all aspects of the Project and the requirements of the Tender Process and these Tender Guidelines;
- b. the contents, completeness, accuracy, adequacy and currency of the Disclosed Information; and
- c. all information which is relevant to the risks, contingencies, costs, procedures and other circumstances related to the Project which could affect their decision to submit a Bid or the nature or terms of a Bid, without reliance on the Australian Government or AEMO.

The Proponent acknowledges and agrees, and must ensure that its Consortium Members acknowledge and agree, that, except where expressly stated otherwise, the Australian Government and AEMO have not verified the information contained in these Tender Guidelines and the Disclosed Information, and such information should not be regarded as a substitute for the exercise of their own judgement by each Proponent and each Consortium Member.

The Proponent and its Consortium Members may not in any way rely upon a failure by the Australian Government or AEMO to provide any information. By participating in the Tender Process, including by submitting any Bid, the Proponent and each of its Consortium Members acknowledge and agree that they have not in any way relied upon information provided by the Australian Government or AEMO or upon a failure by the Australian Government or AEMO to provide information.

By submitting a Bid, a Proponent and each Consortium Member is taken to have:

- a. read and understood the requirements of the Tender Guidelines;
- b. made all reasonable enquiries, investigations and assessment of available information relevant to the risks, contingencies, costs, procedures and other circumstances relating to the Tender Process and Project; and
- c. satisfied itself as to the correctness and sufficiency of its and their Bid.

These Tender Guidelines do not constitute legal or business advice and should not be relied on as a substitute for obtaining detailed advice about the opportunity, the Tender Process, the NEL, NEM, the NER, or any other applicable Laws, procedures or policies.

## 4.20 Bids Commercial-in-confidence

The Australian Government and AEMO will retain all Bids and may, at any time, copy and distribute Bids for the purposes of conducting the Tender Process, including negotiation and evaluation of Bids, and to support its and their due diligence and strategic risk-assessment. Bids will be treated as confidential and will not be disclosed outside the Australian Government and AEMO unless it is:

- a. required or permitted by Law, or in the course of legal proceedings;
- b. in respect of information which is publicly available, or becomes publicly available other than through a breach of this provision;
- c. deidentified information disclosed in the public interest for the purposes of informing the market of tender outcomes including (but not limited to):
  - i. the number of Bids received and the average number of Bids per Proponent;
  - ii. the distribution of Bids received across each merit criteria;
  - iii. the levels of scoring or price from Bids, including as they may delineate successful and unsuccessful Bids; or
  - iv. graphical or numerical information on any aspect of a Bid or the Bid evaluation;
- d. requested by any Authority having jurisdiction over the Australian Government, AEMO or its or their activities;
- e. requested by any relevant Commonwealth Ministers or their advisers, any relevant parliament, parliamentary committee, ombudsman or anti-corruption commission (or similar body in any jurisdiction);
- f. required, in order to conduct due diligence, for AEMO or the Australian Government to contact a relevant Australian Government, State or Territory Government or other relevant parties about a Bid, Project or Proponent.
- g. requested by the Consumer Trustee and/or EnergyCo where the Proponent of the relevant Bid has also submitted a bid in the NSW Tender 5 process or the CWO access rights application process, as relevant, for the Project to which that relevant Bid relates;
- h. consistent with the ordinary transparency or reporting processes of the Commonwealth; or
- i. provided to the Australian Government's Associates including Government agencies and entities, insurers or subject matter experts, for any purpose described in [Sections 4.21](#) and [Section 4.22](#).

## 4.21 Use of Bids

Without limitation to the rights granted in [Section 4.9](#) and [Section 4.20](#), the Proponent grants, and must ensure that each of its relevant Associates grant, to the Australian Government and AEMO an irrevocable, perpetual, non-exclusive, transferable, worldwide, free-of-charge licence to use, reproduce, develop, communicate, modify and/or sub-license the whole or any part of any Bid for the purposes of:

- a. negotiation, evaluation and undertaking due diligence and review and a strategic risk assessment of the relevant Bid;

- b. supporting the Australian Government's and AEMO's due diligence and strategic risk-assessment for the Tender Process, and otherwise ensuring that the Tender Process is competitive; and
- c. providing generalised learnings and improvements for any future tender processes, including any Tender Guidelines and other tender documentation, on a de-identified basis.

The Proponent warrants, and must ensure that each of its Associates who grant a licence as required by this [Section 4.21](#) warrants, that:

- d. it has or they have the authority to grant the licence contemplated in this [Section 4.21](#); and
- e. the exercise by the Australian Government or AEMO, or any person authorised by it or them consistent with, or as contemplated by, the Tender Guidelines will not infringe the IP Rights, moral rights or other rights of any person.

The Proponent must indemnify the Australian Government and AEMO against any Liability or Claim incurred or received by the Australian Government or AEMO arising from any breach of the warranty given by it in, or by its Associates pursuant to, this [Section 4.21](#).

The Proponent consents to AEMO or the Australian Government disclosing its name and any Project details to the Consumer Trustee and/or EnergyCo if the Proponent of the relevant Bid has also submitted a bid in the NSW Tender 5 process or the CWO access rights application process, as relevant for the Project to which that relevant Bid relates. Pursuant to the NSW Tender 5 Guidelines, the Consumer Trustee may also disclose a NSW Tender 5 proponent's name and any project details to the Australian Government, if that proponent may be awarded an LTESA and/ or Access Rights in relation to a project subject to a Bid in this Tender 1 Process. The Australian Government and AEMO may use any such information received from the Consumer Trustee for the purposes of due diligence on the Proponent's Bid in this Tender 1 Process.

## **4.22 No amendment**

A Proponent may not amend its Bid after it has been submitted, unless invited or permitted to do so by the Australian Government or AEMO.

## **4.23 Withdrawal of Bid**

A Proponent who wishes to withdraw or revoke a Bid must promptly notify the Australian Government or AEMO of that fact. Upon receipt of such notification, the Australian Government and AEMO will cease to consider that Bid.

## **4.24 Bid Entities**

Persons are permitted to form a consortium to participate as a Proponent and to deliver the Project to the Australian Government.

The Proponent warrants that its Bid accurately identifies:

- a. the Proponent (including its corporate structure and structure and membership of the Proponent); and
- b. any Consortium Members; and

its and their respective Related Bodies Corporate.

Proponents are also required to nominate a Bid Entity in accordance with the [Proponent Eligibility Criteria](#). The Bid Entity must be an Australian special purpose vehicle incorporated for the purpose of the CIS to enter into the Project Documents to enable the revenues and costs of the relevant Project to be separately assessed and monitored under Project Documents. This Section outlines the requirements for a Proponent depending on its structure.

**If the Bid Entity is known and available to register to participate in Tender Process**

Following announcement of the Tender Process, if the Bid Entity is available for registration at commencement of participation in the Tender Process (regardless of whether it is owned by a consortium or single entity) then that Bid Entity is the Proponent for the purposes of these Tender Guidelines.

**If the Bid Entity is not available to register to participate in Tender Process**

Following announcement of the Tender Process, if a Bid Entity is not available for registration at the commencement of participation in the Tender Process (e.g., a special purpose vehicle is intended to be incorporated later in the Tender Process), then the legal entity which registers a Project on the Online Portal will (unless otherwise agreed with the Australian Government) be the Proponent for the purposes of the Tender Process.

## **4.25 No requirement to return**

The Proponent and each of its Consortium Members acknowledge and agree that the Australian Government and AEMO will not be required to return the Bid, or any other documents, materials, articles and information submitted by or on behalf of the Proponent or any Consortium Member as part of, or in support of, its Bid.

## **4.26 No reimbursement of costs**

A Proponent and each of its Associates' participation or involvement in any part or the whole of the Tender Process is at the sole cost and risk of the Proponent and/or Associate as applicable.

Neither the Australian Government nor AEMO will be responsible for, and no Proponent or its Associates is entitled to be reimbursed for or to make a Claim for, any Liability incurred arising from or in connection with or related to considering the opportunity, the preparation and/or submission of a Bid, or participation or involvement in the Tender Process, including any Liability incurred in attending meetings with the Australian Government or AEMO, or providing any further clarification requested by the Australian Government or AEMO or for any work undertaken in relation to any Project.

## **4.27 No publicity**

Except to the extent required by Law, or the binding requirement of a recognised stock exchange, a Proponent must not, and must ensure that its Associates do not, make any public or media announcement or participate in or be party to any media reports in respect of these Tender Guidelines, the Tender Process, the Project or a Bid, including their involvement in the Tender

Process, or the outcome of this Tender 1 Process, without the Australian Government's or AEMO's prior written consent, such consent to be provided in the absolute discretion of the Australian Government.

## 4.28 Discretions

The Australian Government or AEMO may give, modify, withhold, withdraw, make or exercise any action, approval, consent, decision or discretion or other function under the Tender Guidelines at the Australian Government's or AEMO's absolute discretion, whether subject to conditions and at any time. In exercising these discretions, the Australian Government or AEMO will give regard to probity considerations.

The Proponent acknowledges and agrees, and must ensure that its Associates acknowledge and agree, to the Australian Government's and AEMO's right, at the Australian Government's and AEMO's absolute discretion, to:

- a. reject, refuse or cease to consider, or accept, any Bid that does not comply with the requirements of these Tender Guidelines or which is otherwise incomplete;
- b. suspend or terminate the Tender Process;
- c. not further consider any Proponent or Bid that fails to satisfy the Eligibility Criteria or the Merit Criteria;
- d. reject or accept any Bid notwithstanding whether such Bid is the lower priced, higher-ranked, or otherwise;
- e. make a recommendation (or not make a recommendation) in respect of any Bid at any stage of the Tender Process, including making a recommendation (or not making a recommendation) to designate as a Successful Proponent a proponent which had (or did not have) the highest ranked Bid as against the Eligibility Criteria or the Merit Criteria;
- f. make or not make any decision to designate as a Successful Proponent any Bid or Project, including those which are recommended to the Australian Government by AEMO;
- g. accept or reject the whole or part of any Bid to the extent, in the case of part-acceptance, that part of the Bid is capable of such partial acceptance;
- h. suspend or terminate a person's participation in the Tender Process if the Australian Government or AEMO forms the view that the person (or one of more of their Associates) has breached or not complied with the Tender Guidelines. For the avoidance of doubt, neither the Australian Government nor AEMO is obliged to exclude a Proponent, Consortium Member or any other person from continued participation in the Tender Process in the event that a Proponent, Consortium Member or any other person fails in whole or part to comply with the Tender Guidelines;
- i. require, request, receive or accept (whether requested or not) additional information, material, clarification or explanation from any Proponent or Consortium Member at any time and the Australian Government or AEMO may, at their sole and absolute discretion, take such information, material, clarification or explanation into consideration in their evaluation of a Bid;
- j. if additional information is required by the Australian Government or AEMO pursuant to subparagraph (i), and it is not provided within the timeframe nominated by the Australian Government or AEMO (if any), continue to evaluate the Bid on the basis of the information provided or otherwise available;

- k. waive any or all (in whole or in part) of the obligations of the Proponent, its Consortium Members or its or their respective Associates (or a Competing Proponent, its Consortium Members or its or their Associates) under the requirements under these Tender Guidelines;
- l. consider and accept a Bid regardless of whether any Proponent, Consortium Member or any of its or their respective Associates has breached or not complied with the Tender Guidelines and despite the existence of departures from the Tender Guidelines or technical specifications for the Project;
- m. vary or supplement any part of these Tender Guidelines;
- n. without limiting sub-paragraph (m), cancel, supplement, vary or amend the terms of any information, requirements, procedures, selection criteria and protocols relevant to the Tender Process having regard to probity requirements and advice;
- o. change the timing, order or application of any phase or process in the Tender Process or supplement, remove, add to or vary any part of the Tender Process;
- p. accept or reject a Bid which is submitted at any time after the relevant Closing Date and Time or which is submitted otherwise than in accordance with these Tender Guidelines;
- q. accept or reject any clarification question or request for a meeting which is lodged by a person in respect of the Tender Process after the time and date specified, or otherwise in the manner specified, in these Tender Guidelines as the closing date and time for such questions or requests;
- r. extend any time or date specified in these Tender Guidelines;
- s. call for new Bids;
- t. negotiate with the Proponent or its Consortium Members or any Competing Proponent or its Consortium Members on any matter the Australian Government or AEMO may determine, including allowing the Proponent or a Competing Proponent to clarify, alter, amend, add to or change its Bid after the relevant Closing Date and Time without offering the same opportunity to one or more other Proponents;
- u. in evaluating any Bid, preparing the Project Shortlist, Financial Bid Shortlist or selecting a Successful Proponent, have regard to:
  - i. past performance and corporate history of any Proponent, Consortium Member or any of its or their respective Associates;
  - ii. information concerning any Proponent, Consortium Member or its or their respective Associates which is in the public domain, or which is obtained by the Australian Government or AEMO through its or their own investigations;
  - iii. information provided by any Proponent or Consortium Member in response to a particular Eligibility Criteria or Merit Criteria for the purpose of evaluating other criteria; or
  - iv. any other matters arising from investigations (including probity investigation) by the Australian Government or AEMO, interviews with Proponents or Consortium Members, or responses to clarification questions given by Proponents or Consortium Members and without notifying the Proponent or a Consortium Member and/or Associate (if applicable) of that information; and
  - v. the national electricity objective;
- v. appoint or decline to appoint any number of Successful Proponents or change Successful Proponents at any time;
- w. require the Proponent or any Competing Proponents to make a 'best and final offer';
- x. withdraw, cancel or modify (substantially or otherwise) the CIS or any part of the CIS;

- y. change the Tender Process or any part of the CIS in any way it sees fit (including adding an additional Stage or round of clarifications) and commence a new Tender Process in relation to the CIS on a similar or different basis to that outlined in these Tender Guidelines, having regard to probity matters, if any;
- z. not attribute any reasons for any actions or decisions taken, including in respect of the exercise of any or all of the abovementioned rights and discretions; and
- aa. otherwise take any such other action as it considers appropriate in relation to the Tender Process.

## **4.29 Bids binding**

The Proponent acknowledges and agrees that:

- a. subject to [Section 4.23](#), each Financial Value Bid (together with its Project Bid):
  - i. will constitute an offer from the time the Financial Value Bid is submitted up to and including the last date of the Validity Period; and
  - ii. will remain open for acceptance for the duration of the period referred to in this [Section 4.29](#), notwithstanding that a Proponent is not appointed as the Successful Proponent;
- b. the Bid Entity is prepared to enter into the final Project Documents to which it is proposed to be a party in the form of the documentation included in the Proponent's Financial Value Bid; and
- c. it has had full access to and fully considered, and satisfied itself of, all relevant legal, technical, accounting, commercial, financial and insurance advice and matters relevant to its decision to enter into such documentation.

## **4.30 The Australian Government's and AEMO's right to impose additional requirements**

Without limiting [Section 4.28](#), the Proponent acknowledges and agrees, and must ensure that its Associates acknowledge and agree, that the Australian Government or AEMO may impose additional obligations, including by:

- a. issuing Addenda to these Tender Guidelines;
- b. requiring the execution of confidentiality and process arrangements; or
- c. issuing further procedures and timetables to the Proponent or any Competing Proponent and requiring the Proponent or any Competing Proponent to comply with the further procedures and timetables provided.

## **4.31 Further information**

These Tender Guidelines set out some but not all of the matters which, at the date of these Tender Guidelines, the Australian Government and AEMO consider as or anticipate as being relevant in assisting the Australian Government and AEMO in their selection of any Successful Proponent(s).

Depending on the market response to the Tender Process and information in Bids, additional matters may become relevant and require investigation by the Australian Government or AEMO. If necessary, the Australian Government or AEMO may seek further information from Proponents and the Proponent must provide that further information requested within five (5) Business Days after being

requested to do so by the Australian Government or AEMO, or such longer period as is identified by the Australian Government or AEMO in the notice seeking that information.

## **4.32 Recommended Bids and Successful Proponents**

Prior to the recommendation of Recommended Bids to the Australian Government, AEMO may finalise the necessary details of the Project Documents based on the Recommended Bids in preparation for the final contract award stage. To facilitate this, AEMO may require additional information and participation in meetings relating to the Tender Process from one or more Proponents, its Consortium Members or its and their Associates. This stage of the process could include finalising documentation with either the Australian Government or AEMO. When applicable, the Proponent and its Associates must use reasonable endeavours and provide all reasonable assistance to finalise the Project Documents.

The selection of a Recommended Bid or engagement by the Australian Government or AEMO in the finalisation of Project Documents as described above does not constitute an acceptance of the Bid submitted by the Successful Proponent and is without prejudice to the Australian Government's right to finalise (or not finalise) the Project Documents with the Proponent or to enter into (or to not enter into) the Project Documents with any other Proponent or any other person.

## **4.33 Material changes in circumstances**

The Proponent must notify AEMO and the Australian Government promptly in writing:

- a. of any event of which it is aware which may affect or have an adverse impact on the capability, financial position or capacity of the Proponent or its Associates or the ability of the Proponent or its Associates to continue to participate in the Tender Process or comply with these Tender Guidelines;
- b. of any circumstances which may affect the completeness, accuracy, adequacy or currency of any of the information provided in, or in connection with, the Bid or the Proponent's (or any of its Associates') participation in the Tender Process; or
- c. if, after lodgement of its Bid, there is a direct or indirect change in control (as that term is defined in section 9 of the *Corporations Act 2001* (Cth)) of the Proponent or any Consortium Member.

Upon receipt of any notice pursuant to this [Section 4.33](#), the Australian Government reserves the right (without limitation to any other discretion or action) to:

- a. assess the information provided in that notice and terminate the further participation of that Proponent or Associate in the Tender Process; or
- b. invite the Proponent to amend its Bid accordingly.

## **4.34 No obligation to enter into contracts**

The Australian Government, which is the responsible entity for entering into any Project Document, is under no obligation to enter into pre-contractual negotiations or any Project Documents with any Proponent or any other person. Irrespective of whether the Australian Government selects a Successful Proponent, or AEMO makes a recommendation in respect of a Proponent, if the Australian Government decides not to enter into a contract in relation to a Project, the Australian Government may proceed to enter into contracts with Competing Proponents or pursuant to any alternative

tender process. For the avoidance of any doubt, if the Australian Government decides not to appoint or enter into a contract with one or more Successful Proponents, the Australian Government will be free to proceed via any alternative process.

A Proponent (including a Successful Proponent) may not rely on any purported acceptance by the Australian Government of any offer or any representation in respect of entering into Project Documents with the Proponent or any other person unless and until the Australian Government has formally entered into the Project Documents.

## **4.35 Debriefing and disclosure**

The Australian Government or AEMO, at its absolute discretion, may (but is under no obligation to) provide general debriefing information to unsuccessful Proponents. Any such debriefing will generally be on a collective basis and will discuss general strengths and weaknesses of Bids and will not reveal any information that could compromise the Tender Process or any future tender process (including any participants therein). Neither the Australian Government nor AEMO are under any obligation to give reasons for the non-acceptance of a Proponent's Bid.

Neither the Australian Government nor AEMO are under any obligation to disclose to any Proponent or any of its Associates, any discussions or negotiations the Australian Government or AEMO has had with any Competing Proponents or their Consortium Members or their Associates, or any amendments, additions or other changes the Australian Government or AEMO have allowed any Competing Proponent to make to its Bid, and is not obliged to enter into similar discussions or negotiations with the Proponent or its Associates or to allow or require amendments, additions or changes to be made to its Bid.

## **4.36 Complaints**

- a. Any complaints arising out of or in connection with these Tender Guidelines or the Tender Process must be lodged promptly through the Online Portal upon the cause of the complaint arising or becoming known. The complaint must set out:
  - i. the basis for the complaint (specifying the issues involved);
  - ii. how the subject of the complaint (and the specific issues) affect the person or organisation making the complaint;
  - iii. any relevant background information; and
  - iv. the proposed resolution of the complaint.
- b. The Australian Government or AEMO will seek to address the complaint as soon as possible and may, in their absolute discretion, apply the following procedures to address any complaint:
  - i. the complaint may be reviewed by an officer or person nominated by the Australian Government or AEMO, with a view to finding a solution to appropriately resolve the complaint;
  - ii. the complaint may be referred to the Probity Adviser; and
  - iii. the Australian Government or AEMO may contact the person lodging the complaint with a view to resolving the complaint in the accordance with the solution it proposes.

## 4.37 Right to issue addenda

Each Proponent agrees, and must ensure that its Associates agree, that:

- a. at any time during the Tender Process, the Australian Government or AEMO may, at its absolute discretion, amend these Tender Guidelines, the Tender Process, any Project Documents and any document associated with the Tender Process, by issuing an Addendum;
- b. neither the Australian Government nor AEMO will have any Liability to the Proponent or any of its Associates as a consequence of the exercise of, or failure to exercise its right to issue any such Addendum; and
- c. the Proponent will ensure that it prepares its Bid to take into account and reflect the content of any such Addendum.

## 4.38 Severability

If any provision of the Tender Guidelines is held to be invalid, unenforceable or illegal for any reason, the Tender Guidelines will remain otherwise in full force and effect apart from such provision which will be deemed deleted only to the extent required to remedy such invalidity, unenforceability or illegality. In such a case, the Australian Government or AEMO may, at their absolute discretion, amend these Tender Guidelines in accordance with [Section 4.37](#).

## 4.39 Communications

Communications from the Proponent (including any Associate) to the Australian Government and AEMO regarding the Tender Process will be managed (as applicable) through the Online Portal and subject to these Tender Guidelines and probity requirements. Communications or notifications to the Australian Government and AEMO regarding the Tender Process must be made (as applicable) through the Q&A Process, the conflict of interests form made available to registered Proponents on the Online Portal, or other means as notified by the Australian Government or AEMO from time to time during a Tender Process, each of which will be made available to registered Proponents only through the Online Portal (unless otherwise notified by the Australian Government or AEMO during a Tender Process). For the avoidance of doubt, the submission of a Bid in accordance with these Tender Guidelines does not constitute a communication to the Australian Government or AEMO for the purposes of this [Section 4.39](#).

The Proponent acknowledges and agrees that it will not, and that it will ensure that its Associates do not, make contact with the Australian Government or AEMO to make enquiries of, discuss or make any disclosures in respect of any aspect of the Project or the Tender Process, otherwise than in accordance with these Tender Guidelines.

## 4.40 Process Agent

Each Consortium Member that does not have its registered office in Australia irrevocably:

- a. nominates the Proponent as its agent to receive service of process or other documents in any action in connection with the Tender Process; and
- b. agrees that service on that agent will be sufficient service on it.

## **4.41 Governing Law**

These Tender Guidelines and the Tender Process are governed by the laws applying in the Australian Capital Territory, Australia. By participating in the Tender Process, the Proponent and each of its Consortium Members will be taken to have accepted the application of those Laws and to have submitted to the jurisdiction of the courts of the Australian Capital Territory. Each Proponent (and each Consortium Member) must comply with all relevant Laws and Approvals in preparing and submitting its Bid and in taking part in the Tender Process.

## 5 Commonwealth Policies and Other Requirements

Proponents are required to comply with the Commonwealth policies and other requirements as set out in this [Section 5](#). Please note that some of the Commonwealth policies and requirements identified below have been modified to suit the subject matter of the Tender Process. The representations, warranties and information referred to below must be provided by the Proponent as and when requested to do so as part of the Tender Process.

### 5.1 Shadow Economy Policy

- a. Proponents are referred to the Shadow Economy Procurement Connected Policy issued by the Commonwealth Government.
- b. Any Successful Proponent will be required to provide Valid and Satisfactory Statements of Tax Records referred to in that policy for the Bid Entity and any other person identified in that policy, as required by the CISA.

### 5.2 Workplace Gender Equality

- a. Proponents are referred to the *Workplace Gender Equality Act 2012* (Cth) (**WGE Act**), administered by the Workplace Gender Equality Agency (**WGEA**).
- b. Proponents will be required as part of the Tender Process to represent and warrant whether or not it or the Bid Entity is a 'Relevant Employer' within the meaning of WGE Act and if so, to undertake to provide to the Australian Government, if they are a Successful Proponent, a current letter of compliance with the WGE Act issued by the WGEA prior to entry into the CISA.

### 5.3 Employee Entitlements

Proponents will be required as part of the Tender Process to represent and warrant whether or not they or any Bid Entity has any judicial decision against it (including overseas jurisdictions but excluding judgments under appeal or instances where the period for appeal or payment/settlement has not expired) relating to unpaid employee entitlements where the entitlements remain unpaid.

### 5.4 Significant Event

- a. Proponents are referred to section 5 of Schedule 6 of the draft CISA.
- b. Proponents will be required as part of the Tender Process to represent and warrant whether or not there is any 'Significant Event' as defined in Schedule 6 and, if there is, to provide details.

### 5.5 Prohibited Dealings

- a. Proponents are referred to section 10 in Schedule 6 of the draft CISA.
- b. Proponents will be required as part of the Tender Process to warrant that they and any Associate is not a Prohibited Entity. If the Proponent or any Associate is a Prohibited Entity, they will not be permitted to participate in the Tender Process.

## 5.6 Modern Slavery

- a. Proponents are referred to the *Modern Slavery Act 2018* (Cth) (**MS Act**).
- b. Proponents will be required as part of the Tender Process to represent and warrant whether or not it or the Bid Entity is a 'Reporting Entity' within the meaning of MS Act and if so, that the Proponent and the Bid Entity has complied with its obligations under the MS Act.

## 6 Glossary

In these Tender Guidelines, the following capitalised terms have the meanings set out below.

Term	Definition
<b>Addendum</b>	Any document issued by or on behalf of the Australian Government after the date of these Tender Guidelines and labelled as an “Addendum” to these Tender Guidelines; collectively known as “Addenda”.
<b>AEMO</b>	Either or both of AEMO Limited and AEMO Services.
<b>AEMO Limited</b>	Australian Energy Market Operator Limited (ABN 94 072 010 327).
<b>AEMO Services</b>	AEMO Services Limited (ABN 59 651 198 364).
<b>AEDT</b>	Australian Eastern Daylight Time.
<b>AEST</b>	Australian Eastern Standard Time.
<b>Alternative Financial Value Bid</b>	<p>The document submitted by a Proponent following a Project Bid and with or following a Default Financial Value Bid, comprised of:</p> <ul style="list-style-type: none"> <li>(a) the mandatory part of a Default Financial Value Bid with the only changes being to the permitted Bid Variables, as described in <a href="#">Section 2.3</a> of these Tender Guidelines;</li> <li>(b) any Returnable Schedules provided with the Altered Financial Value Bid; and</li> <li>(c) any additional information submitted by the Proponent in respect of the Altered Financial Value Bid.</li> </ul>
<b>Approval</b>	Any approvals, authorisations, permits, consents, licences, registrations, determinations, certificates, permissions, exemptions and the like from any Authority or under any Law required to be issued, obtained or satisfied in connection with the performance by the Successful Proponent of its obligations under these Tender Guidelines and/or the Project Documents.
<b>Arms’ Length Associates</b>	<p>In respect of an entity:</p> <ul style="list-style-type: none"> <li>(a) means its agents, external contractors, consultants, nominees, licensees or advisers who are involved in assisting or advising the entity in relation to the Tender Process or the CIS; and</li> <li>(b) if the entity is the Proponent, the Bid Entity or a Consortium Member, also includes a Debt or Equity Provider that is offering to provide funding in relation to the Bid, and any of its Close Associates,</li> </ul> <p>but excludes the Australian Government, AEMO and their Close Associates, to the extent that they could be considered to be captured in the above part of this definition.</p>
<b>Associated Project</b>	<p>In respect of a Project, means the ‘Associated Project’ as defined in the Generation CISA, being storage assets co-located with the Project which either:</p> <ul style="list-style-type: none"> <li>(a) share a common AEMO registration;</li> <li>(b) share a common connection point; or</li> <li>(c) have a direct connection that allows for the storage asset to be charged directly from the generation asset.</li> </ul>
<b>Assessed Hybrid Project Bid</b>	A Project Bid which the Proponent elects will be submitted as an Assessed Hybrid Project Bid at the time the Proposal is submitted in response to this Tender Process. If the Proponent makes this election and becomes a Successful Proponent, then the Successful Proponent must commit to deliver the whole Hybrid Project (i.e. both the generation “Project” and the co-located “Associated Project”) by adopting, among other changes, the changes to Milestones as defined in the Generation CISA.

<b>Associates</b>	<p><b>In the case of a Proponent, means:</b></p> <p>(a) any Related Body Corporate of the Proponent;</p> <p>(b) any Consortium Members (including any Bid Entity) and their Related Bodies Corporate (if any);</p> <p>(c) any Close Associates of the entities referred to in paragraphs (a) and (b); and</p> <p>(d) where specifically indicated, any Arms' Length Associates,</p> <p>but does not include the Associates of the Australian Government or AEMO.</p> <p><b>In the case of the Australian Government, means:</b></p> <p>(a) AEMO; and</p> <p>(b) any Close Associates of the Australian Government and AEMO,</p> <p>but does not include the Proponent or its Associates.</p> <p><b>In the case of AEMO, means:</b></p> <p>(a) the Australian Government; and</p> <p>(b) any Close Associates of the Australian Government and AEMO,</p> <p>but does not include the Proponent or its Associates.</p>
<b>Australian Government</b>	The Commonwealth of Australia as represented by Department of Climate Change, Energy, the Environment and Water or such other Commonwealth agency as is from time to time responsible for the Tender Process or is otherwise relevant in the particular context.
<b>Authority</b>	Any government department, local government authority, government or statutory authority, body, instrumentality, minister, agency or other authority exercising administrative or regulatory functions.
<b>Bid</b>	The documentation submitted by a Proponent in relation to the Project in response to Stage A – Project Bid or Stage B – Financial Value Bid of the Tender (including any Default Financial Value Bid and Alternative Financial Value Bid), including, Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Bid Entity</b>	<p>The legal entity which is to be the counterparty to any Project Document which the Australian Government may offer to the Proponent, as proposed in accordance with Eligibility Criteria 7.</p> <p>This entity may be the same as the Proponent if it is the entity that has registered to participate in the Tender Process and no separate legal entity is submitted in accordance with Eligibility Criteria 7.</p>
<b>Bid Variable</b>	Commercial terms of the Project Documents that may be altered by the Proponent in either the Default Financial Value Bid or Alternative Financial Value Bid.
<b>Business Day</b>	A day other than Saturday, Sunday and any other day not taken to be a public holiday in the State in which a Project is located.
<b>CIS</b>	Capacity Investment Scheme.
<b>CISA or Generation CISA</b>	Capacity Investment Scheme Agreement, which is an up to 15 year revenue support contract which may be entered into by the Australian Government (in its absolute discretion) with a Successful Proponent and which will be in the form provided on AEMO's website as part of the Tender Process or such other form as the Australian Government approves.
<b>Claim</b>	<p>Any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity) made:</p> <ul style="list-style-type: none"> <li>• in connection with the Tender Process, these Tender Guidelines, the Project Documents or the Project;</li> <li>• at law or in equity; or</li> <li>• for specific performance, restitution, payment of money (including damages), an extension of time, injunction or any other form of relief.</li> </ul>
<b>Closing Date and Time</b>	The Registration Closing Date and Time, Project Bid Closing Date and Time and Financial Value Bid Closing Date and Time or the relevant one of them as the case may be.

<b>Close Associate</b>	In respect of an entity, means: (a) its officers and employees; and (b) any contractors who are working like employees of the entity.
<b>Commercial Operations Date (or COD)</b>	In respect of a Project, has the meaning given to that term in the CISA.
<b>Competing Proponent</b>	In respect of a Proponent, any person responding to these Tender Guidelines or participating in the Tender Process other than that Proponent, that Proponent's Consortium Members and their respective Associates.
<b>Congestion</b>	When a particular element on the network (e.g. a line or transformer) reaches its limit and cannot carry any more electricity than it is carrying already.
<b>Consolidated Group</b>	A Consolidated Group or MEC (Multiple Entry Consolidated) group as those terms are defined in section 995-1 of the <i>Income Tax Assessment Act 1997</i> (Cth);
<b>Consortium Member</b>	Each of the following entities in their individual capacity: <ul style="list-style-type: none"> <li>• sponsor(s) of the Proponent and/or Bid Entity;</li> <li>• any special purpose vehicle or Bid Entity that is intended to enter into the Project Documents, subject to the Australian Government's approval; and</li> <li>• any additional entity included in the Proponent subject to the Australian Government's approval.</li> </ul>
<b>Disclosed Information</b>	The following information (of whatever nature, including written, graphical, electronic, oral or in any other form) which is disclosed or made available to, or otherwise accessed or obtained by or on behalf of, the Proponent or a Consortium Member or any of their respective Associates in connection with the Project or the Tender Process: <ul style="list-style-type: none"> <li>• these Tender Guidelines and any information disclosed pursuant to these Tender Guidelines (and other documents released as part of the Tender Process) as part of the Tender Process;</li> <li>• any oral or written advice, representations or information given or made available by or on behalf of the Australian Government or any of its Associates during the Tender Process;</li> <li>• all material contained in any data room used by the Australian Government, AEMO and the Proponents or communicated to Proponents through the Online Portal;</li> <li>• each Bid to the extent that it contains or would reveal any of the information referred to in the paragraphs above; and</li> <li>• any other information which the Proponent, Consortium Member or any respective Associate knows or ought reasonably to know is confidential to the Australian Government, AEMO or any of their Associates or should be treated as such.</li> </ul>
<b>Debt or Equity Provider</b>	Any actual or potential provider of debt or equity funding, facilities or accommodation directly or indirectly to the Proponent or its Related Bodies Corporate in relation to the Project, including any security trustee, bond trustee, agent, underwriter, arranger, financial guarantor, bond provider or hedge counterparty however described.
<b>Default Financial Value Bid</b>	The document submitted by a Proponent following a Project Bid, being the mandatory part of a Financial Value Bid, as further described in <a href="#">Section 2.3</a> of these Guidelines including any Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Duplicative Bid</b>	A Bid will be considered to be a Duplicative Bid if it is in respect of essentially the same Project as another Bid from the same Proponent or its Associates, and only has changes to the configuration or design (such as storage duration or nameplate capacity). Note where Proponents submit for both a Generation Project Bid and an Assessed Hybrid Project Bid, this will not be considered a Duplicative Bid. However, a Generation Project Bid and Non-assessed Hybrid Project Bid may be considered a Duplicative Bid.
<b>Eligibility Criteria (or EC)</b>	Proponent Eligibility Criteria and Project Eligibility Criteria.

<b>Final Support Commencement Date</b>	The last date on which the Support Period must commence. Shortlisted Proponents will be required to commit to a date to be the Final Support Commencement Date as part of its Financial Value Bid in Stage B of the Tender Process.
<b>Financial Value Bid</b>	The document submitted by a Proponent in relation to a Project, as described in <a href="#">Section 2.3</a> comprising one or both, depending on the context, of:  (a) a Default Financial Value Bid; and  (b) an Alternative Financial Value Bid,  including any Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Financial Value Bid Closing Date and Time</b>	The last date for submission of Financial Value Bids, as advised by a notice on the Online Portal.
<b>Financial Value Shortlist</b>	A shortlist of Financial Value Bids selected during Stage B as potential Recommended Bids.
<b>Generation Project Bid</b>	A Project Bid that is submitted for a project that includes a single generation asset and connection point, or combines multiple generation assets (e.g., wind and solar) that share a common connection point, and is not an Assessed Hybrid Project Bid or a Non-assessed Hybrid Project Bid.
<b>GST</b>	Goods and Services Tax.
<b>GST Group</b>	A GST group formed in accordance with Division 48 of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any related act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax.
<b>Hybrid Project</b>	Has the meaning given in the Generation CISA, being a co-located generation and storage project including the Project, the Associated Project and the Shared Infrastructure.
<b>Intellectual Property Rights (or IP Rights)</b>	All existing and future rights in the nature of intellectual property or industrial property (within the meaning of the term 'industrial property' in Article 1 of the Paris Convention for the Protection of Industrial Property) throughout the world, including: <ul style="list-style-type: none"><li>• copyright;</li><li>• trade and service marks (whether registered or unregistered);</li><li>• designs (whether registered or unregistered);</li><li>• patents and inventions (whether or not patented or patentable);</li><li>• internet domain names;</li><li>• trade, business or company names; and</li><li>• confidential information and trade secrets,</li></ul> in each case whether tangible or intangible, which incorporates, embodies or is based on any of the things referred to in the paragraphs above.
<b>Late Bids</b>	Has the meaning set out in <a href="#">Section 2.1.2</a> .
<b>Law</b>	Any Commonwealth, State/Territory or local government legislation, judicial, administrative, or regulatory decrees, judgments, awards or orders and all common laws and principles of equity and, for the avoidance of doubt, includes any Regulatory Instruments.
<b>Liability</b>	Any loss, cost, liability or expense whether: <ul style="list-style-type: none"><li>• arising from or in connection with any proceeding or Claim or not;</li><li>• liquidated or not;</li><li>• legal or equitable;</li><li>• present, prospective or contingent; or</li><li>• owed, incurred or imposed by or to or on account of or for the account of any person alone or severally or jointly with another or others.</li></ul>
<b>Local Content</b>	Local Content refers to goods, services, and resources produced, manufactured, or supplied within Australia and New Zealand.

<b>Location</b>	The region of the NEM in relation to which the Project is registered or intended to be registered as contemplated in EC7, and Located has a corresponding meaning.
<b>Maximum Capacity</b>	The generation capacity that a Project intends register with AEMO as its maximum for dispatch into the NEM and which is identified by the Proponent as a Bid Variable.
<b>Merit Criteria (or MC)</b>	The Merit Criteria set out in <a href="#">Section 3.2</a> .
<b>Minister</b>	The Minister for Climate Change and Energy of the Commonwealth of Australia and any successor Minister with responsibility for the Capacity Investment Scheme or other Minister within the portfolio, along with their delegates.
<b>MW</b>	Megawatt.
<b>MWh</b>	Megawatt hour.
<b>NEL</b>	The National Electricity Law set out in the schedule to the <i>National Electricity (South Australia) Act 1996</i> (SA) as it applies in the jurisdiction where the Project is Located.
<b>NEM</b>	The National Electricity Market.
<b>NER</b>	The National Electricity Rules made under the NEL, as it applies in the jurisdiction where the Project is or is intended to be Located.
<b>Non-assessed Hybrid Project Bid</b>	<p>A Project Bid which the Proponent elects will be submitted as a Non-assessed Hybrid Project Bid at the time the Proposal is submitted in response to this Tender Process.</p> <p>If the Proponent intends to build an Associated Project but does not wish to commit to deliver the Associated Project, then:</p> <ul style="list-style-type: none"> <li>(a) the Associated Project will not be included in the assessment of the Proponent's bid; and</li> <li>(b) in accordance with <a href="#">Section 4.22</a>, a Proponent may not amend its Bid from a Non-assessed Hybrid Project to an Assessed Hybrid Project after it has been submitted, unless invited or permitted to do so by the Australian Government or AEMO. If a Successful Proponent intends to alter the Project from a Non-assessed Hybrid Project to a Hybrid Project after executing a Generation CISA, any such alteration request will be subject to the Material Alteration regime, as defined in the Generation CISA.</li> </ul>
<b>Online Portal</b>	SmartyGrants, an online administration system made available by or on behalf of the Australian Government to Proponents as part of participation in the Tender Process and into which Proponents may upload their Bids, from which they may obtain information regarding the Tender Process, and through which they may correspond with the Tender Process administration team. The Online Portal is located <a href="#">here</a> .
<b>Participating Jurisdiction</b>	A jurisdiction that is a participating jurisdiction within the meaning of section 5 of the <i>National Electricity (South Australia) Act 1996</i> (SA).
<b>Permitted Purpose</b>	In relation to a Proponent, the sole purposes of considering the opportunity set out in this Tender 1 Process and preparing and submitting a Bid.
<b>Probity Advisor</b>	The independent probity advisor appointed by AEMO or the Australian Government, or such replacement probity advisor as is notified by AEMO or the Australian Government from time to time.
<b>Prohibited Entity</b>	<p>A person or entity who or which is:</p> <ul style="list-style-type: none"> <li>• directly or indirectly engaged in preparing, planning, assisting or fostering a terrorist act;</li> </ul>

	<ul style="list-style-type: none"> <li>• a listed terrorist organisation for the purposes of the <i>Criminal Code Act 1995</i> (Cth) (details of listed terrorist organisations are available at <a href="https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations">https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations</a>);</li> <li>• subject to sanctions or similar measures under the <i>Charter of the United Nations Act 1945</i> (Cth) or the <i>Autonomous Sanctions Act 2011</i> (Cth) (details of individuals and entities are available at: <a href="https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx">https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx</a>);</li> <li>• listed on the 'World Bank's Listing of Ineligible Firms and Individuals' posted at: <a href="https://www.worldbank.org/en/projects-operations/procurement/debarred-firms">https://www.worldbank.org/en/projects-operations/procurement/debarred-firms</a>;</li> <li>• owned, controlled by, acting on behalf of, or at the direction of individuals, persons, entities or organisations referred to in bullet points 1 to 4 above; or</li> <li>• providing direct or indirect support, resources or assets (including any grant monies) to individuals, persons, entities or organisations referred to in owned, controlled by, acting on behalf of, or at the direction of individuals, persons, entities or organisations referred to in bullet points 1 to 4 above.</li> </ul>
<b>Project</b>	The project described in a Generation Project Bid or a Hybrid Project Bid.
<b>Project Bid</b>	A document submitted by a Proponent in relation to a Project on or before the Project Bid Closing Date and Time including any Returnable Schedules, together with any additional information submitted by the Proponent.
<b>Project Bid Closing Date and Time</b>	The last date for submission of Project Bids which, as at the date of these Tender Guidelines is 1 July 2024 at 5pm AEST, as such date and time may be adjusted by the Australian Government or AEMO issuing a notice on the Online Portal.
<b>Project Documents</b>	<p>The CISA, together with any other documents that are required or contemplated under the CISA or into which the Australian Government requires a Successful Proponent to enter at or around the same time as the CISA, with regard to the relevant Bid and specific Project arrangements (drafts of which are included on AEMO's website).</p> <p>The full suite of Project Documents will be determined on a case by case basis by the Australian Government having regard to the relevant Bid and specific Project arrangements.</p>
<b>Project Shortlist</b>	A shortlist of Proponents and their Project Bids created from those recommended by AEMO to progress to Stage B – Financial Value Bid.
<b>Project Eligibility Criteria</b>	The Project Eligibility Criteria identified in <a href="#">Section 3.1</a> .
<b>Proponent</b>	An entity that registers to participate in the Tender Process including those entities that submit, or intend to submit, a Project Bid or any Financial Value Bid and also including a shortlisted Proponent or Successful Proponent.
<b>Proponent Eligibility Criteria</b>	The Proponent Eligibility Criteria identified in <a href="#">Section 3.1</a> .
<b>Recommended Bid</b>	One or more Bids that may be recommended by AEMO to the Australian Government after the assessment and due diligence in relation to that Bid has been completed
<b>Registration Date</b>	The date on which prospective Proponents were able to commence registration on the Online Portal regarding the Tender Process, being 16 May 2024.
<b>Registration Closing Date and Time</b>	The date on which prospective Proponents ceases to be able to register on the Online Portal regarding the Tender Process which is one week prior to the Stage A – Project Bid Closing Date and Time, as such date and time may be adjusted by the Australian Government or AEMO issuing a notice on the Online Portal.

<b>Regulatory Instrument</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the NEL and the NER;</li> <li>(b) any other Law that regulates the electricity industry in the States and Territories (as applicable); and</li> <li>(c) any relevant licence, Approval, code, instruction, direction, condition or orders of an Authority (whether formal or informal) that regulates a person's activities in respect of the electricity industry.</li> </ul>
<b>Related Body Corporate</b>	Has the meaning given in the <i>Corporations Act 2001</i> (Cth), but on the basis that 'subsidiary' means another entity which is a subsidiary of the first entity within the meaning of the <i>Corporations Act 2001</i> (Cth), provided that a trust may be a subsidiary (and an entity may be a subsidiary of a trust) if it would have been a subsidiary under this definition if that trust were a body corporate. For these purposes, a unit or other beneficial interest in a trust is to be regarded as a share.
<b>Relevant Employer</b>	Has the meaning given in the <i>Workplace Gender Equality Act 2012</i> (Cth).
<b>Reporting Entity</b>	Has the meaning given in the <i>Modern Slavery Act 2018</i> (Cth).
<b>Returnable Schedules</b>	The returnable schedules provided through the Online Portal for the relevant stage of the Tender Process and which are to be completed by or on behalf of the relevant Proponent as part of the submission of a Bid as referred to in these Tender Guidelines.
<b>Satisfactory</b>	<p>In respect of an STR, means the STR meets:</p> <ul style="list-style-type: none"> <li>(a) the conditions set out in Part 6.b of the Shadow Economy Procurement Connected Policy; or</li> <li>(b) if the circumstances in Part 6.c of the Shadow Economy Procurement Connected Policy apply, the conditions set out in Part 8 of the Shadow Economy Policy.</li> </ul>
<b>Shadow Economy Procurement Connected Policy</b>	The Shadow economy – increasing the integrity of government procurement: Procurement connected policy guidelines March 2019 available at <a href="https://treasury.gov.au/publication/p2019-t369466">https://treasury.gov.au/publication/p2019-t369466</a> .
<b>Shared Infrastructure</b>	In respect of a Project, means plant, equipment and infrastructure which is located at the Hybrid Project site and used for both the Project and the Associated Project, including common balance of plant with the Associated Project, as defined in the draft CISA.
<b>Significant Event</b>	<p>means:</p> <ul style="list-style-type: none"> <li>• any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Proponent and Bid Entity (if different to the Proponent) that has an adverse impact or could be reasonably perceived to have an adverse impact on their professional capacity, capability, fitness or reputation;</li> <li>• any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Proponent or Bid Entity (if different to the Proponent) that may adversely impact on compliance with Commonwealth policy, applicable Laws or the Commonwealth's reputation;</li> <li>• any unsettled judicial decisions against the Proponent or Bid Entity (if different to the Proponent) relating to unpaid employee entitlements; or</li> <li>• any non-compliance by the Proponent or Bid Entity (if different to the Proponent) with any judgment against that person from any court or tribunal (including overseas jurisdictions but excluding judgments under appeal or instances where the period for appeal or payment/settlement has not expired) relating to a breach of applicable workplace Laws, including workplace relations law, work health and safety Law or workers' compensation Law.</li> </ul>

<b>Stage A – Project Bid Merit Criteria</b>	Each of Merit Criteria 1, 2, 3 and 4.
<b>Stage A</b>	<p>The stage of the Tender Process which commences on the Project Bid Opening Date and ends on the day before the Financial Value Bid Opening Date and which involves (amongst other things):</p> <ul style="list-style-type: none"> <li>(a) the development and submission of Project Bids by Proponents, their Consortium Members (and their respective Associates);</li> <li>(b) assessment of Project Bids; and</li> <li>(c) the identification of the Project Shortlist.</li> </ul>
<b>Stage B</b>	<p>The stage of the Tender Process which commences on the Financial Value Bid Opening Date and ends on the earlier of the date on which the last of the Successful Proponents enters into a Project Documents with the Australian Government and the date on which the Australian Government issues a notice identifying that Stage B has ended. Stage B involves (amongst other things):</p> <ul style="list-style-type: none"> <li>(a) the development and submission of Financial Value Bids by those Proponents on the Project Shortlist;</li> <li>(b) the assessment of Financial Value Bids;</li> <li>(c) the identification of a Financial Value Shortlist;</li> <li>(d) the identification of the Successful Proponents (if any); and</li> <li>(e) the finalisation of the Project Documents with each of the Successful Proponents (if any).</li> </ul>
<b>Stage B – Financial Value Merit Criteria</b>	Each of Merit Criteria 5, 6 and 7.
<b>Stage C</b>	The stage described in <a href="#">Section 2.4</a> .
<b>Statement of Tax Record or STR</b>	A statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out <a href="#">here</a> .
<b>Subcontract</b>	Has the meaning given to it in the draft CISA.
<b>Subcontractor</b>	Has the meaning given to it in the draft CISA.
<b>Successful Proponent</b>	A Proponent whose Project is selected by the Australian Government to (subject to completion of any required negotiations) enter into Project Documents in accordance with <a href="#">Section 2.5</a> .
<b>COD Target Date</b>	The date by which a Successful Proponent will be required to ensure that commercial operation of the Project has been achieved (subject to any adjustment to that date in accordance with the terms of the CISA). See the definition of the COD Target Date in the CISA.
<b>Tender Conditions</b>	The terms and conditions set out in <a href="#">Section 4</a> of these Tender Guidelines and such further terms and conditions that are otherwise imposed by the Australian Government or AEMO in respect of the Tender Process.
<b>Tender Documentation</b>	The documentation issued by or on behalf of the Australian Government regarding the Tender Process, including these Tender Guidelines, any Tender Process briefing materials, the Process Deed Poll and any Addenda, but does not include any final Project Document or any other contract document issued in connection with the documents listed in this definition.
<b>Tender Guidelines</b>	This document, including its schedules, attachments, appendices and any Addenda and the Tender Conditions.

<b>Tender Process or Tender 1 Process</b>	The process specified in these Tender Guidelines, commencing on Registration Date and ending 6 months after Stage B closing date (inclusive).
<b>Trade Consolidated List</b>	The list available at Consolidated List   Australian Government Department of Foreign Affairs and Trade (dfat.gov.au), relating to persons and entities that are subject to sanctions under Australian sanction Laws including the <i>Charter of the United Nations Act 1945</i> (Cth) and the <i>Autonomous Sanctions Act 2011</i> (Cth).
<b>Valid</b>	In respect of an STR, means valid in accordance with Part 7.e of the Shadow Economy Procurement Connected Policy.
<b>Validity Period</b>	The period of six calendar months, commencing from the Financial Value Bid Closing Date and Time, or such other period of time as may be notified by the Australian Government and agreed to by the Proponent (acting reasonably).
<b>WGEA</b>	The Workplace Gender Equality Agency.
<b>WGE Act</b>	The <i>Workplace Gender Equality Act 2012</i> (Cth).