

## Capacity Investment Scheme – New South Wales

### FEDERATION FUNDING AGREEMENT - ENVIRONMENT

Formalities and operation of schedule	
Parties	Commonwealth New South Wales
Duration	This Schedule is expected to expire on 31 December 2039 or 18 months after the last contracted end date for a firming LTESA for a Commonwealth-funded project, whichever is later.
Purpose	<p>1. This Schedule will support the delivery of the Commonwealth's expansion of the NSW Electricity Infrastructure Roadmap 2023 Tender Round 2 Firming Infrastructure by up to an additional 550 MW.</p> <p>2. The objectives of the Commonwealth's partnership with NSW for the NSW Electricity Infrastructure Roadmap are:</p> <p>(a) improving reliability outcomes in NSW by bringing on additional clean dispatchable capacity sooner;</p> <p>(b) ensuring Commonwealth funding for projects represents value for money; and</p> <p>(c) ensuring support from the Commonwealth is consistent with the objectives and scope of the Capacity Investment Scheme (CIS).</p>
Background	<p>In this Schedule:</p> <p>'Commonwealth-funded project' means a project that is subject to an executed firming LTESA with the SFV under the EII Act, and is to solely receive Commonwealth funding under this Schedule.</p> <p>'Consumer Trustee' has the meaning given to that term under the EII Act, which at the date of signing this agreement is AEMO Services Ltd, ACN 651 198 364.</p> <p>'EII Act' means the <i>Electricity Infrastructure Investment Act 2020</i> (NSW) and any regulations made under that Act, as amended from time to time.</p> <p>'Electricity Infrastructure Fund (EIF)' has the meaning given under the EII Act.</p> <p>'Financial Trustee' has the meaning given under the EII Act.</p> <p>'Long Term Energy Service Agreement (LTESA)' means an agreement entered between the SFV and a person (project) in accordance with the EII Act.</p> <p>'LTES Operator' has the meaning given to that term under the EII Act.</p>

	<p>'Other Agreements' includes the Tripartite Deed and Project Development Agreement and any other agreement between a Commonwealth-funded project and the SFV, which may include third parties.</p> <p>'Regulator' has the meaning given in the EII Act.</p> <p>'Risk Management Contract' means the NSW Federation Funding Arrangements Agreement for Tender Round 2 entered into between NSW and the SFV.</p> <p>'Scheme Financial Vehicle (SFV)' has the meaning given in the EII Act, which at the date of signing this agreement is Scheme Financial Vehicle Pty Ltd ACN 662 496 479.</p>																
Financial Contributions	<p>1. The Commonwealth will provide a total financial contribution to NSW of up to [REDACTED] in respect of this Schedule. This will provide funding for up to 550 MW for Commonwealth-funded projects resulting from the NSW Electricity Infrastructure Roadmap 2023 Tender Round 2 Firming Infrastructure, and administration costs in connection with these projects, on the terms as provided in this Schedule.</p> <p><b>Table 1</b></p> <table border="1" data-bbox="478 1025 1396 1415"> <thead> <tr> <th data-bbox="478 1025 1029 1124">(Financial Year)</th> <th data-bbox="1029 1025 1396 1124">Maximum potential National Partnership Payments to NSW</th> </tr> </thead> <tbody> <tr> <td data-bbox="478 1124 1029 1153">2023-2024</td> <td data-bbox="1029 1124 1396 1153">[REDACTED]</td> </tr> <tr> <td data-bbox="478 1153 1029 1182">2024-2025</td> <td data-bbox="1029 1153 1396 1182">[REDACTED]</td> </tr> <tr> <td data-bbox="478 1182 1029 1211">2025-2026</td> <td data-bbox="1029 1182 1396 1211">[REDACTED]</td> </tr> <tr> <td data-bbox="478 1211 1029 1240">2026-2027</td> <td data-bbox="1029 1211 1396 1240">[REDACTED]</td> </tr> <tr> <td data-bbox="478 1240 1029 1270">2027-2028</td> <td data-bbox="1029 1240 1396 1270">[REDACTED]</td> </tr> <tr> <td data-bbox="478 1270 1029 1335">Each subsequent financial year until 2035-2036 (inclusive)</td> <td data-bbox="1029 1270 1396 1335">[REDACTED]</td> </tr> <tr> <td data-bbox="478 1357 1029 1388"><b>Total</b></td> <td data-bbox="1029 1357 1396 1388">[REDACTED]</td> </tr> </tbody> </table> <p>2. The Commonwealth's financial contribution to NSW is not for publication. This will ensure the tender processes are competitive and provide governments value for money. After the conclusion of each financial year, the Commonwealth's total financial contribution for that financial year will be progressively published in Appendix B.</p> <p>The Parties agree that in all other circumstances information relating to the Commonwealth's financial contribution to NSW will only be disclosed by the Parties and by the SFV to other parties where required by law, or for regulators, accountants, auditors, or publishing of annual accounts.</p>	(Financial Year)	Maximum potential National Partnership Payments to NSW	2023-2024	[REDACTED]	2024-2025	[REDACTED]	2025-2026	[REDACTED]	2026-2027	[REDACTED]	2027-2028	[REDACTED]	Each subsequent financial year until 2035-2036 (inclusive)	[REDACTED]	<b>Total</b>	[REDACTED]
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2023-2024	[REDACTED]																
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Each subsequent financial year until 2035-2036 (inclusive)	[REDACTED]																
<b>Total</b>	[REDACTED]																

	<p>3. The Commonwealth will commit funding at the agreed level and will release funding at the agreed level in the timeframe reflected by the milestones at Table 2.</p> <p>4. The Commonwealth’s financial contribution for each financial year is capped at the amount reflected in Table 1.</p> <p>5. Unspent funds from previous financial years can be carried forward to future financial years, subject to agreement from the Commonwealth, where this is required because a Commonwealth-funded project has been delayed relative to the assumptions that underpin the funding profile. However, the Commonwealth’s contribution in all circumstances may only be used for Commonwealth-funded projects resulting from the NSW Electricity Infrastructure Roadmap 2023 Tender Round 2 Firming Infrastructure.</p> <p>6. Commonwealth financial contributions are to be used to meet costs relating to:</p> <ul style="list-style-type: none"> <li>a. payments under LTESAs for Commonwealth-funded projects; and</li> <li>b. administration costs of the SFV or Consumer Trustee in relation to Commonwealth-funded projects.</li> </ul> <p>7. The Commonwealth’s share of the administration costs incurred by the Consumer Trustee and SFV in relation to Commonwealth-funded projects are included as part of the Commonwealth’s financial contribution under Table 1.</p> <p>8. The profile of Commonwealth financial contribution set out in Table 1 will be reviewed and amended as required in the first quarter of calendar year 2024 and after the final milestone of the Project Development Agreements for all Commonwealth-funded projects is reached. Amendments to the profile will be subject to the agreement of both Parties and consultation with the SFV. For the avoidance of doubt, the Parties agree that these reviews will not result an increase of the overall Commonwealth financial contribution, but instead enable more precise amounts provided for in Table 1, with any change to the profile of the Commonwealth financial contribution requiring the Commonwealth’s agreement in accordance with the Budget Process Operational Rules.</p>
Additional Terms	<p><b>Conditions of Funding</b></p> <p>1. Technologies supported by Commonwealth-funded projects will be according to the firming tender guidelines and regulatory framework of the EII Act.</p> <p>2. Commonwealth-funded projects will be either grid connected battery energy storage systems or renewable generation technologies that would</p>

be eligible for Large-Scale Generation Certificates.

3. Commonwealth funding may not be used to support fossil gas or demand response projects.

4. Commonwealth-funded projects must be firming infrastructure that is scheduled by AEMO in the central dispatch process under the *National Electricity Rules*, unless otherwise agreed by the Commonwealth.

5. Unless otherwise provided in this Schedule, Commonwealth funding is conditional upon the selection of Commonwealth-funded projects by the Consumer Trustee.

6. The Parties agree that Commonwealth-funded projects will be selected in accordance with the firming tender guidelines and regulatory framework of the EII Act, as they apply. This includes the principle that the selection of Commonwealth-funded projects by the Consumer Trustee will be on the same basis and assessment process as other projects, including merit criteria such as value for money, subject in all cases to the application of the conditions in Clauses (1) – (4) above.

7. The Parties understand that any LTESA, Project Development Agreement, and Tripartite Deed entered into in relation to a Commonwealth-funded project will be made on substantially the same terms as those agreements published on the Consumer Trustee's website on 15 May 2023.

#### **Risk Management Contract**

8. NSW will enter into a Risk Management Contract with the SFV and provide the Commonwealth with an executed copy. NSW will diligently administer the Risk Management Contract and will consult with the Commonwealth prior to any variation to, or termination of, the Risk Management Contract.

9. The obligation of the Commonwealth to provide any further financial contribution specified under Table 1 will cease upon termination of the Risk Management Contract and this Schedule will terminate, without Clause 32 applying.

#### **Funds**

10. NSW will require that all Commonwealth funds provided under this Schedule are deposited in the EIF and used only in relation to Commonwealth-funded projects.

11. NSW will require that Commonwealth funds are separately accounted for in the EIF and that movements of Commonwealth funds in and out of the fund are effectively traced.

12. The Parties agree that all payments in and out of the EIF are required to be made in accordance with the relevant law, including provisions of the EII Act.

**Projects**

13. The Parties agree that the assessment, recommendations and decisions regarding projects to receive Commonwealth funding will remain at all times with the Consumer Trustee or other entity responsible, acting independently.

14. NSW will require the SFV to provide the Commonwealth with the executed LTESAs and Other Agreements made in relation to Commonwealth-funded projects in accordance with milestone 1 of Table 2 (as specified) and otherwise in a timely manner.

**Legislation and administration**

15. NSW will consult the Commonwealth, in a timely manner, regarding any proposed change to the EII Act, or other relevant NSW legislation, or any NSW administrative arrangement which may affect the Commonwealth-funded projects. This will include informing the Commonwealth if there is likely to be a change to the entity appointed as, or a change in control of, the Financial Trustee or SFV.

**Payment Timing and Criteria**

16. On receipt of the reports specified for a particular milestone at Table 2, the Commonwealth will make the corresponding payment specified for that particular milestone.

**Adjustments to funding**

17. Where the agreed funding provided by the Commonwealth for a particular financial year has exceeded the actual underwriting amount required for Commonwealth-funded projects for that particular financial year, including as a result of cashflows received by the SFV from LTES Operators under the terms of the LTESA for a Commonwealth-funded project, the Commonwealth will reduce the amount of funding provided to NSW in a subsequent year by the difference in those amounts, as provided for in the milestone payments at Table 2.

18. A final reconciliation of the advance payments made by the Commonwealth and the actual costs incurred by the SFV over the course of this agreement will be undertaken in FY 2036-2037 or 18 months after the last LTESA for a Commonwealth-funded project ends, whichever is later. Following this reconciliation, a reconciliation adjustment payment will be made between the Parties, if applicable, in accordance with Clause 19.

**Residual funds**

19. Despite clause 31 of the FFA – Environment, NSW will return any unspent Commonwealth funds at the end of this Schedule (consistent with the process at milestone 3) to the Commonwealth within a reasonable time but not exceeding six months, unless otherwise agreed by the Commonwealth.

**Reporting**

20. In relation to Appendix A Clause 2, NSW will ensure, and in the case of Appendix A Clauses 1, 3, 4 and 5, NSW will require, that reporting requirements specified are complied with.

In the event NSW becomes aware that any information needed to provide the reports specified in Appendix A or otherwise required under this Schedule is not available or is not expected to be available for provision in the required timeframe, NSW will advise the Commonwealth as soon as practicable and use its best endeavours to remedy.

Within three months of the execution of all the LTESAs for the Commonwealth-funded projects, NSW will provide the Commonwealth with a report on the outcomes of the Tender Round 2 Firming Infrastructure. The report will include details on projects that submitted a financial value bid, value for money considerations and decision making regarding the allocation of Commonwealth funds to projects.

21. NSW will inform the Commonwealth, or require the SFV to inform the Commonwealth, of any known material risks or issues as they arise which may affect Commonwealth-funded projects, including but not limited to:

- (a) construction delays;
- (b) changes to project costs;
- (c) potential changes in control of a Commonwealth-funded project;
- (d) potential termination of an LTESA or Other Agreement, for whatever reason; and
- (e) social license issues.

**Review and Management**

22. The Parties will meet with the SFV on a quarterly basis, commencing in the fourth quarter of calendar year 2023, to discuss the status of Commonwealth-funded projects and identify any issues or risks which are likely to arise.

**Promotional material and publicity**

23. The Parties agree that the roles of both Parties will be acknowledged and recognised appropriately in relation to any events, announcements, promotional material or publicity relating to activities under this Schedule. The Parties will endeavor to notify the LTES Operator of a

Commonwealth-funded project in advance of any media release that directly relates to its Commonwealth-funded project.

Both Parties agree to consult with each other, the Consumer Trustee, the SFV and any relevant LTES Operator, as appropriate, prior to the release of any information to the media, given the commercial nature of the tender.

24. NSW will require that the SFV make arrangements to ensure Commonwealth-funded projects acknowledge Commonwealth funding in relation to promotional material provided and publicity measures undertaken by the Commonwealth-funded project.

25. NSW will meet any reasonable requests by the Commonwealth to provide any other information regarding Commonwealth-funded projects in connection with this Schedule.

#### **Audit**

26. In relation to this Schedule, NSW will ensure that performance of the Consumer Trustee, Financial Trustee, Scheme Financial Vehicle and EIF are subject to audit by the Regulator. NSW will ensure the Minister responsible under the EII Act considers any request made by the Commonwealth to direct the Regulator to undertake an audit of the performance of the Consumer Trustee, Financial Trustee, Scheme Financial Vehicle or EIF.

27. NSW will conduct a performance audit of the SFV in response to any reasonable request made to NSW by the Commonwealth for such an audit.

28. Arrangements and terms of any audits requested by the Commonwealth, including the costs, will be agreed between the Parties separately before NSW considers the request from the Commonwealth.

29. NSW will provide the Commonwealth with all reports produced as a result of the audits at Clauses 26 and 27, in a timely manner.

30. NSW will require that the SFV provides the Commonwealth with copies of the annual SFV financial audit in a timely manner.

#### **Confidentiality**

31. NSW will require that the SFV provides any commercial-in-confidence information for the purposes of this Schedule to the Commonwealth, in relation to any Commonwealth-funded project.

#### **Variations or termination**

32. The Parties agree that prior to any variation or termination of this Schedule, the SFV will be consulted.

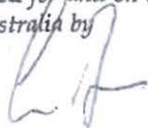
Table 2: Performance milestones	Report due	Payment
<p><b>1. For Financial Year (FY) 2023-24:</b> Provision by NSW to the satisfaction of the Commonwealth of:</p> <ul style="list-style-type: none"> <li>• A notice from the SFV: <ul style="list-style-type: none"> <li>○ Confirming the Commonwealth-funded projects;</li> <li>○ Detailing the Commonwealth-funded projects, including the: <ul style="list-style-type: none"> <li>▪ annuity caps;</li> <li>▪ MW capacity; and</li> <li>▪ LTES Operator, location, technology type, estimated construction completion date, and term of the agreement.</li> </ul> </li> </ul> </li> <li>• Copies of all executed LTESAs with Commonwealth-funded projects, in accordance with Clause 14 Additional Terms;</li> <li>• Anticipated costs of the SFV for FY2023-24 and FY2024-25 in relation to all selected Commonwealth-funded projects supported by a reasonable methodology and calculations.</li> </ul>	<p>Within five (5) Business Days of the execution of all the LTESAs for the Commonwealth-funded projects.</p>	<p>Amount reflecting anticipated SFV costs for FY2023-24 and FY2024-25.</p> <p>Amount capped as specified in Table 1</p> <p>Payment will be made in the next available payment period following approval of the milestone.</p>
<p><b>2. For Financial Year (FY) 2024-2025 and each subsequent year until FY2034-2035 (inclusive), or further years as required (through Clause 5 of Financial Contributions) until the financial year (inclusive) before the financial year in which the last LTESA for a Commonwealth-funded project expires:</b></p> <p>Provision by NSW to the satisfaction of the Commonwealth:</p> <ul style="list-style-type: none"> <li>• Actual costs incurred by the SFV for the previous financial year for Commonwealth-funded projects, including the reports at Appendix A Clause 1;</li> <li>• Anticipated costs of the SFV for the following financial year for all Commonwealth-funded projects supported by a reasonable methodology and calculations.</li> </ul>	<p>15 May of each year</p>	<p>Amount reflecting anticipated SFV costs for the following FY, minus any adjustments pursuant to Clause 17 Additional Terms.</p> <p>Amount capped as specified in Table 1 and where relevant, revised in accordance with Clause 5 Financial Contributions.</p>



		Payment will be made in the following July payment period (and not before) following approval of the milestone, or the subsequent payment period if the milestone is not yet approved.
<p><b>3. For FY 2036-2037, or 18 months after the date the last LTESA for a Commonwealth-funded project expires – whichever is later:</b></p> <p>Provision by NSW to the satisfaction of the Commonwealth of:</p> <ul style="list-style-type: none"> <li>• Actual costs incurred by the SFV for any previous financial years for Commonwealth-funded projects not already reported to the Commonwealth, including the reports at Appendix A Clause 1;</li> <li>• A final statement of any funds received from the Commonwealth under this Schedule that are still held in the EIF, inclusive of any repayments from LTES Operators received by the SFV in connection with a Commonwealth-funded project.</li> </ul>	31 December 2036 or 18 months after the last LTESA for a Commonwealth-funded project expires	<p>Final Reconciliation and payment (where applicable) pursuant to Clause 18 Additional Terms.</p> <p>Return of residual funds to Commonwealth pursuant to Clause 19 Additional Terms, if applicable.</p>

The Parties have confirmed their commitment to this schedule as follows:

Signed for and on behalf of the Commonwealth of Australia by



**The Honourable Chris Bowen MP**  
Minister for Climate Change and Energy

[Day] [Month] [Year]

22/09/23

Signed for and on behalf of the State of New South Wales by



**The Honourable Penny Sharpe MLC**  
Minister for Climate Change, Energy, Environment and Heritage

[Day] [Month] [Year]

6/10/23

## **Appendix A**

### **Reporting**

1. NSW will require the SFV to provide the Commonwealth with:
  - a) A quarterly financial report, within 60 business days after the end of each quarter in which information has been provided to the SFV by one or more LTES Operators of Commonwealth-funded projects. This report will include, in relation to each Commonwealth-funded project:
    - (i) the net operational revenue<sup>1</sup> and the contracted percentage of net operational revenue (including each of its components)<sup>2</sup> for that quarter; and
    - (ii) each payment (if any) under the annuity product that is payable in respect of that quarter<sup>3</sup>; and
    - (iii) each payment (if any) payable to the SFV by the LTES operator.
  - b) An annual financial report. This report is to be provided after the end of each financial year, commencing from the date of this Schedule. This report will include copies of the annual audited financial report of the SFV for that financial year; and the total (net) cost to the Commonwealth of all Commonwealth-funded projects in that reporting period, and will separately identify the Commonwealth's share of the administration costs incurred by the Consumer Trustee and SFV.
2. NSW will provide the Commonwealth with an annual report as soon as practicable after each financial year. This report will include:
  - (a) employment outcomes (full-time equivalent employees per annum) in that reporting period; and
  - (b) any other matter which in the opinion of NSW should be made available to the Commonwealth.
3. NSW will require the SFV to provide the Commonwealth with an annual report as soon as practicable after each financial year detailing any significant environmental and social license issues associated with Commonwealth-funded projects.
4. NSW will require the SFV to provide the Commonwealth with all reports required to be submitted to the SFV by Commonwealth-funded project LTES Operators under their respective LTESAs and Other Agreements with the SFV. These may include reports on:
  - (a) Operating strategy;
  - (b) Operations, including:
    - (i) actual performance against operating strategy;
    - (ii) availability;
    - (iii) storage capacity, and
    - (iv) performance events;

5. NSW will require the SFV to provide to the Commonwealth all reports resulting from

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<sup>1</sup> As defined in the relevant LTESA.

<sup>2</sup> As defined in the relevant LTESA.

<sup>3</sup> As defined in the relevant LTESA.

audits commissioned by the SFV in relation to the operation of Commonwealth-funded projects by LTES Operators.

## Appendix B

### The Commonwealth's final payments by financial year

<b>Financial Year</b>	<b>\$m</b>
2023-2024	TBC
2024-2025	TBC
2025-2026	TBC
2026-2027	TBC
2027-2028	TBC
2028-2029	TBC
2029-2030	TBC
2030-2031	TBC
2031-2032	TBC
2032-2033	TBC
2033-2034	TBC
2034-2035	TBC
2035-2036	TBC
2036-2037	TBC
2037-2038	TBC