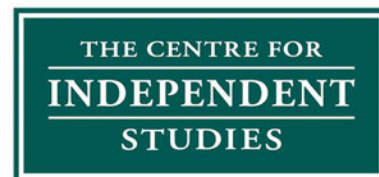


16 September 2025

Stephanie Jolly
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Submitted via regulatorysandbox@aer.gov.au

Dear Ms Jolly,

Submission to Ausgrid Trial Waiver Application Consultation

The Centre for Independent Studies (CIS) welcomes the opportunity to comment on Ausgrid's application for a trial waiver to conduct its "Community Power Network" (CPN).

The CIS is a leading independent public policy think tank in Australia. It has been a strong advocate for free markets and limited government for nearly 50 years. The CIS is independent and nonpartisan in both its funding and research, does no commissioned research nor takes any government money to support its public policy work.

CIS submits that the application fails to satisfy the innovative trial principles in the National Electricity Law and should not be approved as proposed. Specifically:

- The trial could proceed under existing arrangements (NEL s 7B(e)). The 5% RAB materiality threshold and CESS penalties are not barriers but consumer protection mechanisms. Ausgrid could fund the trial outside the RAB like other similar DNSP community battery projects, or via a Contingent Project Application if costs later exceed the threshold.
- The proposal is not materially innovative (NEL s 7B(a)). Community batteries, DER orchestration, and hosting capacity mapping have all been tested in other DNSP and ARENA-funded pilots without reopening revenue determinations or seeking open-ended ring-fencing waivers. The novelty lies only in the regulatory treatment sought, not in the technology or services.
- Consumer protections are inadequate (NEL s 7B(d)). The application removes the AER's default opt-out safeguard, may require customers to opt in simply to receive dividends, and compels participation in a scheme with uncertain benefit-sharing rules. Ausgrid's claim of "no downside" ignores that \$72.8m would be added to the regulated asset base and recovered from all consumers.
- The proposal harms competition (NEL s 7B(h)). Unlike prior waivers that were narrow and time-limited, Ausgrid's proposal would shift contestable activities — owning and trading community

batteries, leasing capacity, and acting as ‘solar owner of last resort’ — into the regulated monopoly framework. This undermines competitive neutrality of the DNSP.

CIS also stresses that the CPN entrenches rooftop-solar cross-subsidies, a problem well documented in the literature, including our paper *Rooftop Solar: Paradise Lost*. CER households already capture outsized financial returns that far exceed the system savings they deliver. The CPN dividend, largely driven by CER exports, would amplify this inequity: solar households receive both premium FiTs and a share of dividends their generation enables, while non-solar households fund the scheme through network charges but see limited, uncertain returns.

For these reasons, CIS urges the AER to decline Ausgrid’s waiver. At a minimum, any approval must be time-limited, contestability-preserving, and conditioned on strong consumer safeguards, including full opt-out rights, explicit informed consent for data use, and a fully specified dividend mechanism prior to commencement.

We appreciate the AER’s consideration of this submission and would welcome the opportunity to provide further evidence or appear at a hearing.

Yours sincerely,

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Centre for Independent Studies Energy Program

1 What Ausgrid is proposing and the waiver it seeks

Ausgrid has applied to the AER for a trial waiver under the regulatory sandbox to run its Community Power Network (CPN) in two locations — Mascot–Botany and Charmhaven — to test DNSP-led orchestration of DER, coupled with DNSP-owned community batteries, and the payment of a “CPN dividend” to local customers.

The trial would let Ausgrid purchase, own and operate ~130 MWh of batteries (and potentially up to 70 MW of solar) in the two zones, use a Spatial Energy Plan to determine siting/orchestration, trade in wholesale/FCAS markets, and then redistribute a share of the value as a dividend to customers in the zones.

Ausgrid proposes three funding streams:

- \$76.3m from private property owners to install additional rooftop solar. However, Ausgrid has also sought a waiver to act as a ‘solar owner of last resort’ if households in the trial zones cannot secure a commercial offer from the private market.
- \$72.8m to be added to Ausgrid’s standard control services (SCS) RAB and will be recovered from all Ausgrid customers through network charges.
- \$37.6 million self-funded by Ausgrid, with the company anticipating that roughly half this outlay will be recovered from revenues generated within the trial itself.

Key waivers Ausgrid has requested:

1. A waiver of NER clause 6.6.5 to reopen the AER’s 2024–29 determination and insert CPN funding, even though project costs are well below the 5% RAB materiality threshold that normally bars such reopeners.
2. A waiver of NER cl 6.17.1 and the AER Ring-fencing Guideline to permit Ausgrid to own and operate community batteries, lease capacity for trading, and act as ‘solar owner of last resort’ — all activities that are ordinarily contestable and prohibited to DNSPs.
3. Departure from the AER’s default opt-out option under the Trial Projects Guidelines, making participation compulsory for all zone customers while still requiring some to opt in to a separate process just to receive dividend payments.

Ausgrid has proposed two potential pathways at the conclusion of the trial period:

- If successful, re-classify CPN as a distribution service and continue into 2029–34 under standard regulation (with assets/DSO functions accommodated under the network framework).
- Otherwise, sell battery/solar assets but retain DSO/IT assets (e.g., Spatial Energy Plan) within SCS as a “reversion to current settings.”¹

2 The CPN does not satisfy the innovative trial principles

The National Electricity Law requires the AER, when assessing a trial waiver, to have regard to the innovative trial principles in NEL s 7B (via s 18ZL(2)), as well as the eligibility requirements in NER cl 8.16.4(a). CIS submits that Ausgrid's application falls short of these principles. In this section, we focus on four in particular where the deficiencies are most significant.

2.1 The trial is possible without waiving NER clause 6.6.5

NEL s 7B(e) requires the AER to consider "whether the trial project is unable to proceed under the existing regulatory framework" before granting a waiver. Ausgrid asserts that its Community Power Network (CPN) could not proceed without a trial waiver of NER cl 6.6.5, because the project costs fall below the 5% RAB materiality threshold and would therefore not trigger a re-opener of the 2024–29 determination. It also claims that, absent a waiver, it would incur Capital Expenditure Sharing Scheme (CESS) penalties of around 30% of project costs, which "would prevent the project from moving forward".²

Neither of these reasons satisfies the statutory requirement that a project "could not otherwise proceed under the existing framework."³ CESS and the materiality threshold are not barriers: they are consumer protection mechanisms. The materiality rule prevents DNSPs from reopening settled determinations for minor projects; CESS ensures the regulated network monopolies bear financial consequences if they were to overspend. Ausgrid's position, it would seem, is not that the CPN is impossible under the current rules, but that it would prefer to avoid the normal regulatory disciplines that apply to its monopoly role.

If Ausgrid were confident in the merits of the trial, it could proceed today under existing arrangements. Nothing in the NER prevents it from financing a trial outside the RAB, using its normal mix of shareholder equity and debt, or by establishing an unregulated affiliate to conduct contestable activities in compliance with the AER's Ring-fencing Guideline.

DNSPs have previously conducted battery and DER trials without seeking waivers or RAB recovery. SA Power Networks ran its Salisbury residential energy storage trial without seeking to reopen its revenue determination.⁴ AusNet Services, through Project EDGE funded by ARENA, operated under a narrow, time-limited ring-fencing waiver, with no attempt to recover costs through its regulated revenue allowance.⁵ Energex, in May 2025, applied for ring-fencing waiver to own and operate six battery energy storage systems and lease spare capacity to a third party; the waiver was temporary and time-bound, and importantly did not involve reopening its revenue determination.⁶

By seeking to bypass the established process under NER 6.6.5, Ausgrid is making an unwarranted claim and setting a dangerous precedent: that network businesses dissatisfied with the incentive framework can press for special waivers or carve-outs. This undermines the integrity of the regulatory framework, encourages further waiver applications from other networks, and increases the risk that consumers will bear costs that have not been properly justified.

2.2 The CPN does not develop new or materially improved approaches

NEL s 7B(a) requires the AER to consider “whether the trial project is focused on developing new or materially improved approaches to the use or supply of, or demand for, electricity” when deciding whether to grant a trial waiver.

Ausgrid frames the novelty of its Community Power Network (CPN) around a central hypothesis:

...the coordinated deployment and orchestration of distributed storage by the network operator can deliver the lowest cost of electricity to all customers...⁷

It also highlights intended “learnings” such as improved local network operation, load and voltage management, avoidance of over-voltage malfunctions, and the creation of a Spatial Energy Plan to optimise battery siting. Ausgrid claims this will show whether DNSP-led orchestration of batteries can deliver a superior benefit for customers.⁸

However, CIS submits that none of the activities described in Ausgrid’s application constitute “new or materially improved approaches”:

- **DER orchestration has already been tested.** For example, as mentioned above, AusNet and AEMO’s Project EDGE, funded by ARENA, trialled DNSP- and market-operator-led orchestration of CER. That project operated under a narrow, time-limited ring-fencing waiver and external funding, without reopening AusNet’s revenue determination.
- **Community batteries are already tried and established.** Trials of distribution-connected storage have been running for nearly a decade. SA Power Networks’ Salisbury Residential Battery Trial (2015–19) installed batteries across 100 households to test demand shifting, voltage support, and customer benefits, all within existing regulatory arrangements. Energex, Ergon Energy, and Energy Queensland are currently deploying dozens of neighbourhood batteries under ARENA’s Community Batteries Funding Round 1, with costs supported by grants rather than RAB reopeners.⁹ Ausgrid’s proposal to install and operate 130 MWh of batteries is not a novel or materially improved approach. It appears to be an attempt to bring an already established practice inside the regulated asset base.
- **Spatial network planning is not new.** In New South Wales, DNSPs already publish hosting capacity maps that show available distribution network capacity for new rooftop solar, batteries, and load. The NSW government maintains a Network Hosting Capacity Opportunities Map, based on data from Ausgrid, Endeavour, and Essential Energy, updated annually to guide developers and customers.¹⁰ Ausgrid’s proposed Spatial Energy Plan is only an incremental extension of these existing tools — moving from static maps to a more granular, feeder-level model — but does not amount to a materially new approach within the meaning of NEL s 7B(a).
- **The “CPN dividend” is undefined.** Ausgrid concedes that the methodology for calculating and delivering dividends to customers will not be settled until well into the trial. AER notes that Ausgrid’s work with RACE for 2030 and UNSW to design an “equitable distribution” model is “expected to be finalised within two-and-a-half years of the trial commencing”.¹¹ Without a

defined, replicable dividend mechanism from the outset, the CPN cannot credibly be said to be trialling a new approach to consumer benefit-sharing.

Nothing in the technology or services to be trialled under the CPN can be considered genuinely new or novel. What is distinctive about Ausgrid's proposal is the regulatory treatment it seeks. Ausgrid is asking the AER not only to waive the 5% materiality threshold in NER cl 6.6.5, but also to grant a ring-fencing waiver that would allow it to own, operate and trade community batteries, and step in as 'solar owner of last resort'. Other DNSPs have only ever sought narrow, time-limited waivers for specific pilots (e.g. Project EDGE under ARENA funding, Energex's temporary BESS waiver). However, Ausgrid is explicitly seeking a pathway for these activities to be treated as standard control services in its next regulatory period, with residual IT and DSO assets retained in the RAB even if the trial is deemed unsuccessful. This would set a controversial precedent, effectively expanding monopoly scope into competitive markets — the opposite of what the sandbox framework was intended to achieve.

2.3 The CPN fails to demonstrate adequate consumer protections

NEL s 7B(d) requires that, when considering a trial waiver, the AER must have regard to "whether the trial project maintains adequate consumer protections, including whether the trial project may involve risks to consumers and (if so), how those risks might be mitigated."

Ausgrid's CPN does not satisfy this principle. Its proposed waiver disregards important safeguards in the AER's Trial Projects Guidelines and expose consumers to risks that have not been addressed:

- **Compulsory participation with no opt-out.** The AER Guidelines make clear that, by default, proponents must "allow participating retail customers to opt out of the trial project at any time and for any reason."¹² In its Issues Paper, the AER reiterates that its "default position is customers must be able to opt out of trials," while noting there may be circumstances where this is not practicable.¹³ Ausgrid's application does not demonstrate impracticability. Instead, it states that automatic inclusion is "equitable" and that the "worst outcome" for customers is a zero dividend.¹⁴ That is not a substitute for evidence. Since the Guidelines place the burden on Ausgrid to show opt-out is not feasible,¹⁵ and it has failed to do so, the waiver should not be granted. Moreover, even if opt-out were merely inconvenient, that would not necessarily justify overriding consumer choice. On the contrary, where participation is compulsory and benefits uncertain, the lack of opt-out is a further reason for the AER to reject the waiver: consumers would be involuntarily exposed to risks without explicit consent.
- **Opt-in to be paid.** Ausgrid promotes the CPN as requiring no customer action: "customers do not need to opt in or opt out of the trial project. All customers in the pilot regions will automatically receive the benefits generated by the Community Power Network, including any potential savings or dividend payments."¹⁶ However, the AER's Issues Paper cautions that this may not be true in practice: "customers may need to opt in to a payment process to receive dividend payments if Ausgrid's proposal for retailers to pass on the dividend is unsuccessful."¹⁷ In other words, customers are compelled to participate in the trial for risks and costs, but may be required to take extra steps simply to receive the promised benefits. This potential

asymmetry — compulsory exposure to risks, conditional access to benefits — fails to meet the consumer protection principle in NEL s 7B(d).

- **Undefined dividend methodology.** Ausgrid’s proposal concedes that “it may not be until the second year of the pilot that a dividend is actually paid to customers” and that it is still exploring how to define “equitable distribution” and determine the mechanism for delivery.¹⁸ The AER’s Issues Paper likewise notes that “it is presently unknown how the dividends... will be provided to trial customers” and foreshadows that conditions may be needed to guarantee delivery.¹⁹ Customers are therefore compelled to participate in a scheme where the benefit-sharing mechanism is incomplete, may deliver nothing in year one, and may ultimately depend on AER-imposed conditions to function at all.
- **Misleading claim of “no downside.”** Ausgrid presents the CPN as risk-free for customers, claiming the “worst outcome” is simply no dividend. This is misleading. In reality, all Ausgrid customers will fund \$72.8 million via regulated charges, while trial-zone customers may not receive a dividend until the second year and face undefined allocation rules.

Taken together, these flaws mean the CPN does not maintain adequate consumer protections as required by the NEL. Customers would be compelled into participation without an opt-out, face uncertainty over when and how dividends will be delivered, and may even be required to opt in just to receive payments. The dividend methodology remains undefined, with benefits potentially delayed until the second year of the pilot and reliant on AER-imposed conditions. On this basis, the CPN fails the consumer protection test, and the AER should not grant the waiver.

2.4 Ausgrid’s ownership of CPN harms competition

NEL s 7B(h) requires the AER to consider “whether the trial project may impact on competition in a competitive sector of the national electricity market”. The AER’s Issues Paper underscores this, noting that “[c]ompetition is generally the most efficient way to deliver energy services for consumers. DNSPs are generally not permitted to participate in contestable markets because of the risk that their monopoly position in distribution services could damage competition in other markets.”²⁰

Ausgrid’s CPN proposal fails this principle. By seeking to own, operate, and orchestrate assets normally reserved for competitive providers, the CPN poses a structural threat to contestable markets:

- **Ring-fencing waiver beyond any precedent.** Previous DNSP waivers (e.g., AusNet’s Project EDGE, Energex’s 2025 BESS waiver) were strictly time-limited and narrow, enabling specific trials under close monitoring. Ausgrid, by contrast, is seeking a sandbox waiver that would create a pathway for community battery ownership, orchestration, and even “solar ownership” to be treated as standard control services in the 2030–34 regulatory period. Residual DSO and IT assets would remain in the RAB even if the trial fails. This is a significant departure from previous narrow waivers and risks entrenching monopoly scope in contestable markets.
- **Information advantage through the Spatial Energy Plan.** Ausgrid positions the Spatial Energy Plan as a public good, stating that “a version of the map will be provided to the public to help customers... identify where assets like solar and storage could be of most value”.²¹ But the

same proposal confirms that Ausgrid will develop the model internally using NMI-level data and AI inference of DER ownership, and that it will withhold detail “where this level of granularity would expose individual customer data... or create security issues”.²² In practice, Ausgrid retains privileged access to the full high-resolution data set while competitors see only a sanitised version. This entrenches an information asymmetry; Ausgrid will always know more about the local network than any retailer, aggregator or VPP operator, giving it a structural advantage in siting and orchestrating assets.

3 The CPN entrenches rooftop solar inefficiencies and inequities

Ausgrid frames the Community Power Network (CPN) as a way to deliver the benefits of consumer energy resources (CER) to all customers, including those unable to install rooftop solar. It emphasises ‘equity’ through automatic inclusion of in-zone customers and the promise of a dividend to everyone.²³

But the experience of rooftop solar across the National Electricity Market shows CER has not been equitable. As CIS has argued, the boom in rooftop solar uptake was largely because of subsidies and distorted tariff structures, not because it delivers genuine value to the grid.²⁴ CIS estimates that while rooftop solar may save the system at most 4c/kWh in avoided coal and gas fuel and operating costs, households on average receive 8–18c/kWh in bill savings — two to four times more than the actual grid cost savings provided.

Network costs are largely fixed, but DNSPs recover 60–75% of them through volumetric usage charges. By self-consuming their solar output, households avoid these charges while still contributing to the critical peak demand that drives network augmentation. The shortfall is thus shifted onto non-solar households.

This cross-subsidy is regressive: solar households tend to be older and wealthier, while renters and younger households without solar are left paying more. Rooftop solar also imposes additional distribution costs by increasing voltage fluctuations, reverse power flows, and equipment stress on the distribution network, introducing inefficiencies while compounding the inequity.²⁵

Ausgrid’s CPN does not correct this structural problem. While community batteries may provide some local peak management, the dividend arrangements do not eliminate inequity. Ausgrid promises that dividends will be shared ‘equitably’ across all in-zone customers, but the term is undefined and the methodology will not be finalised until well into the trial. In the meantime, solar households are guaranteed additional benefits through premium feed-in tariffs, and because CER exports are the main source of arbitrage and LUOS (Local Use of System) revenues, they effectively drive the value of the dividend pool. This means CER owners both receive higher feed-in tariffs and share equally in dividends their generation largely created. Non-solar households, by contrast, contribute to funding the scheme through regulated charges but receive only the dividend. In practice, the CPN entrenches a double-dipping dynamic where solar households capture the greatest rewards while others are left subsidising them.

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- ¹ AER. 2025. Ausgrid Community Power Network trial 2025 Issues Paper. p. 12.
- ² Ausgrid. 2025. *Trial Waiver Application*. p. 5.
- ³ NEL s 7B(e)
- ⁴ SAPN. 2020. *Salisbury Residential Energy Storage Trial Summary Report*.
- ⁵ <https://www.aemo.com.au/initiatives/major-programs/nem-distributed-energy-resources-der-program/der-demonstrations/project-edge>
- ⁶ Energex. 2025. *Energex's waiver application against the Australian Energy Regulator's Ring-fencing Guidelines – six new energy storage devices*.
- ⁷ Ausgrid. 2025. *Regulatory sandbox application – revision 2: Community Power Network*. p. 2.
- ⁸ Ibid. p. 31ff.
- ⁹ <https://arena.gov.au/projects/energy-queensland-community-batteries-project/>
- ¹⁰ <https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/electricity-supply-and-reliability-check/network-hosting-capacity-opportunities-map>
- ¹¹ AER. 2025. Ausgrid Community Power Network Trial Issues Paper. p. 10.
- ¹² AER. 2023. *Trial Projects Guidelines*. p. 13.
- ¹³ AER. 2025. *Ausgrid Community Power Network Trial Issues Paper*. pp. 13-14.
- ¹⁴ Ausgrid. 2025. *Trial Waiver Application*. pp. 12-13.
- ¹⁵ AER. 2023. *Trial Projects Guidelines*. p. 9.
- ¹⁶ Ibid.
- ¹⁷ AER. 2025. *Ausgrid Community Power Network Trial Issues Paper*. pp. 13.
- ¹⁸ Ausgrid. 2025. *Trial Waiver Application*. p. 25.
- ¹⁹ AER. 2025. *Ausgrid Community Power Network Trial Issues Paper*. p. 13.
- ²⁰ Ibid. p. 15.
- ²¹ Ausgrid. 2025. *Regulatory sandbox application – revision 2: Community Power Network*. p. 36.
- ²² Ibid. p. 6.
- ²³ Ibid. p. 25.
- ²⁴ CIS. 2025. *Rooftop solar: paradise lost*. <https://www.cis.org.au/publication/rooftop-solar-paradise-lost>
- ²⁵ Ibid. p. 14.