Tesla Motors Australia, Pty. Ltd.

546 Gardeners Road
Alexandria NSW 2015
Australia

16 September 2025

Ms Stephanie Jolly
Executive General Manager, Consumer, Policy and Markets Division

Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

RE: Ausgrid Community Power Network trial waiver application

Thank you for the opportunity to provide feedback on the proposed amendments to the Australian Energy Regulator's (AER) Issue Paper on Ausgrid Community Power Network (CPN) trial waiver application.

At Tesla, our mission is to accelerate the world's transition to sustainable energy. We now have more than 50 VPP programs globally. Since 2015 we've operated at grid-scale and behind-the-meter across diverse regulatory regimes and market designs. Our platform stack - Powerwall, Wall Connector, Powerhub, Opticaster and Tesla app - optimises devices to the preferences of the device owner while delivering reliable, forecastable fleet services to networks and market operators. That experience informs this submission.

The Energy Innovation Toolkit was established to encourage genuine innovation that delivers long-term benefits for consumers. It was never intended to provide a sidestep regulatory safeguards or perform regulatory arbitrage. Yet this is precisely what Ausgrid's CPN proposal attempts to do. This is not a voluntary trial and customers can opt out of; it is enrolment for 32,000 customers in a monopoly-run scheme. The AER's own issues paper acknowledges this design. It is presented as an experiment in consumer benefit and orchestration, but beneath the rhetoric it is a vehicle for cross-subsidisation, regulatory arbitrage, and monopoly expansion into markets that competitive providers are already serving effectively and growing at scale.

This submission explains why the waiver should not be granted. It considers the impacts on consumers, the adequacy of consumer protections, the implications for competition, the absence of any genuine market failure that outweighs the risks in this approach, and the availability of better alternatives that respect both innovation and the separation of monopoly and competitive roles. The objectives Ausgrid claims to pursue through the CPN could be achieved far more effectively by working in partnership with existing competitive providers, rather than by bypassing ring-fencing rules designed to protect consumers. Retailers, aggregators, and OEMs already have proven platforms for orchestrating behind-the-meter assets, managing demand, and delivering customer value. A partnership model would allow Ausgrid to focus on its legitimate role, providing transparent network data, flexible connections, and facilitating access, while

leaving contestable activities to those best placed to deliver them. Such an approach would preserve competitive neutrality, comply with existing safeguards, and still allow Ausgrid to test how orchestration interacts with local network conditions.

Tesla would be open to help the AER explore a model where Ausgrid facilitates orchestration in partnership with competitive aggregators, rather than displacing them. Under such a framework, Ausgrid could provide the essential enablers, such as transparent network data, hosting capacity information, and flexible export arrangements, while leaving the operation of behind-the-meter devices and market participation to retailers, OEMs, and aggregators. This approach would allow Ausgrid to test its hypothesis about network benefits, without breaching ring-fencing safeguards or undermining competition. It would also deliver a more durable pathway to innovation, by harnessing the strengths of competitive providers and ensuring that customer choice and informed consent remain at the centre of the energy transition.

Therefore, whilst the aim of the proposal from Ausgrid is directionally sound (i.e. accelerate the deployment of household storage and deliver consumer benefits) the mechanisms proposed fail to meet the requirements under the Innovation Sandbox (Tables 1 and 2) and should therefore be rejected unless adjustments are made.

Kind regards,

[redacted]
[redacted]

Response to the AER's Issue Paper

Markets Already Deliver

Ausgrid's claim that DNSP involvement is necessary to deliver storage is flatly contradicted by real-world evidence. The ARENA *Community Battery Market Snapshot* (2024) demonstrates that battery storage is already viable, cost-effective, and scalable without DNSP ownership. In ARENA's Community Battery Funding Round 1, 21 projects were funded nationwide, leveraging $143 million in grants with $216 million in private co-investment, clear proof that private capital is willing and able to participate. More importantly, ARENA found that behind-the-meter, privately owned batteries were the most cost-efficient pathway for delivering both household and system benefits, outperforming DNSP-owned or front-of-meter models. ARENA clearly cited that "behind-the-meter household batteries delivered the lowest levelised cost of storage of any model tested." This evidence confirms that genuine consumer-led and competitive approaches can deliver superior outcomes, and that DNSP ownership is not required to unlock the value of distributed storage.

A particularly powerful example of equitable access is Tesla's South Australian Virtual Power Plant (VPP), developed in partnership with the SA Government and community housing providers. Vulnerable households who could never have afforded a battery have been able to participate because capital costs were covered through government support and private investment. Customers retained retail choice, opted in voluntarily, and benefited directly from reduced bills and greater resilience. The aggregated fleet of batteries has supported the grid during extreme events, proving the capability of CER to deliver system security at scale. Crucially, this equity was delivered without monopoly control.

At the same time, governments are already addressing access challenges. Since 1 July 2025, the Cheaper Home Batteries Program has supported over 43,000 installations, lowering costs and broadening access at unprecedented scale. These examples show that where equity is a concern, the solution lies in targeted government driven policy and competitive delivery, not in DNSPs displacing markets. Resolving equity concerns and access to certain classes of products remains a role for governments, whereas networks should continue to be resolving existing access issues in accessing their network as described in more detail below.

Anti-competitive and anti-innovation impacts

The CPN's current design not only expands Ausgrid's monopoly footprint but actively undermines competition and innovation. OEMs, aggregators, and retailers cannot build or market innovative services if the underlying technology is commandeered into a monopoly scheme. This creates a chilling effect: investors and innovators are less likely to develop advanced products if they cannot rely on access to behind-the-meter resources. In effect, Ausgrid's control narrows the scope of what competitive providers can offer, weakening consumer choice and stifling the very innovation the sandbox is supposed to encourage. In a state like NSW where they are actively encouraging households to sign up to VPPs through

their Peak Demand Reduction Scheme, a trial such as this cuts against an already established product and service, not introducing anything innovative.

Rising network costs

Ausgrid has placed network utilisation at the centre of its case for the CPN trial. It claims that by directly controlling local solar and battery assets, it can improve load factors, reduce costs, and deliver efficiency gains. But this claim collapses under scrutiny. Customers do not pay for "utilisation" of assets. They pay for reliability, affordability, and value. Higher utilisation is meaningless for the end customer if it simply masks continuing rising costs. The AER's 2025–26 pricing decision confirms that the average Ausgrid household will see its network bill rise by $59.40 (8.6 per cent), with small businesses facing even steeper increases. These increases are happening despite, or perhaps because of a utilisation narrative that obscures the real issue: costs are increasing regardless of how assets are "used." Injecting controlled generation or storage can improve apparent load factors on paper while bills still rise. AEMO's data shows that NEM-wide consumption has been flat for decades, with only 4–6 per cent growth projected to 2036–37. In New South Wales, demand growth is minimal. In this context, DNSP claims that higher utilisation through ownership of batteries and solar delivers meaningful benefit is unconvincing.

The contradictions deepen when set against Ausgrid's own tariff reforms. From July 2024, Ausgrid introduced 'opt-in' two-way export tariffs. From July 2025 these two-way tariffs have been made mandatory for any new or upgraded connections. Exports in the middle of the day are now charged at around 1.2 c/kWh, while exports during evening peaks are rewarded at about 2.3 c/kWh. The effect is modest, roughly $6–7 per year for a typical 5 kW solar household, but the principle is clear. Ausgrid already has a regulatory lever to manage export flows and utilisation in a transparent, proportionate way across all customers. Yet at the same time, it seeks to reopen its determination to fund new assets through the regulated asset base (RAB), funnelling dividends to a chosen few. In effect, Ausgrid is charging the many while subsidising the few. If Ausgrid's objective is to manage utilisation and local exports, it already has tools to do so. It does not need to build and own solar and batteries, socialise costs, and expand its monopoly role.

There are also proven alternatives. SA Power Networks (SAPN) has rolled out flexible export limits and dynamic operating envelopes that nearly doubled rooftop solar hosting capacity, achieving higher utilisation without owning assets, without socialising costs, and while preserving consumer choice. Under SAPN's Innovation Fund they have also suggested working on a proposal to build a local flexibility marketplace which would further enhance cost effectiveness through avoided upgrades, as well as additional potential revenue for participating customers. Ausgrid could look to similar mechanisms by releasing granular constraint and hosting capacity data, enabling competitive providers to invest where it matters. The real barrier to utilisation is data opacity, not lack of DNSP control.

Loss of Consumer Choice

Ausgrid points to the "CPN dividend" as its key consumer benefit. Customers in the trial zones could be enrolled and locked into participation for the full five years of the trial. There is no ability to opt out. This breaches the principle of explicit informed consent, which is enshrined in the National Energy Retail Law and Rules. In the retail market, customers are free to choose offers, switch providers, and reconsider their options annually under mechanisms like the default market offer. To lock households in a five-year scheme of an essential service is the very opposite of consumer protection, even if it is a trial. In a time where the CER Roadmap and ECMC have instructed the CER Taskforce to investigate CER consumer protections more broadly for new energy services, this seems like a substantial mismatch in policy intent.

Customers outside the trial zones are treated even more unfairly: they must pay nearly 40 per cent of the project costs through regulated charges but receive none of the dividends. Far from empowering consumers, the CPN erodes fairness, strips customers of choice, and undermines trust.

Financial Weaknesses

The financial case for the CPN is also fragile at best. At its core, Ausgrid proposes to reopen its 2024–29 determination to add $72.8 million of CPN costs to the RAB. This forces all 1.8 million customers across New South Wales to underwrite nearly 40 per cent of the project, even though only 32,000 customers in two trial areas will receive dividends. Ausgrid appeals to speculative benefits like avoided upgrades and emissions reductions, but those are uncertain and unproven. In practice, this is a direct cross-subsidy from the many to the few.

Ausgrid also claims that $37.6 million of the trial will "self-fund" through benefits it generates. But these benefits rely on arbitrage opportunities in wholesale markets, assuming spreads between day and evening prices decline only moderately over the next decade. This assumption is highly optimistic in a grid with accelerating renewable penetration. If spreads compress more quickly the dividend pool could vanish. Ausgrid has said it will absorb losses, but that commitment only applies to dividend distributions, not to sunk costs already embedded in the RAB.

Most troubling is the proposed $42.6 million "emissions benefits adjustment." Ausgrid multiplies forecast solar output by the AER's Value of Emissions Reductions (VER) and seeks to capitalise this into the RAB. This is a mistreatment of the AER's 2024 guidance, which clearly stated that VER is an input into cost–benefit analysis and Regulatory Investment Tests, not a revenue stream. By treating a system-wide societal benefit as if it were a network service, Ausgrid double counts abatement already recognised in national policy and shifts costs unfairly onto customers.

Ausgrid's dividend forecasts are also fragile. Promised at $150–200 per household per year, dividends in the first year are only projected to be $11. They depend on wholesale spreads that could or could not eventuate. Meanwhile, customers outside the trial zones will pay nearly 40 per cent of project costs without receiving a cent in benefits on their bill. This is not equitable, nor is it low risk.

The flaws are compounded by the broader context. Ausgrid's 2025–26 tariffs are already rising, adding $50.51 for households and $111.26 for small businesses. On top of this, Ausgrid must contribute $212.77 million to the NSW Electricity Infrastructure Roadmap in 2025–26. To impose the costs of a discretionary trial on top of these unavoidable increases should be publicised more broadly and tested with consumers, consistent with DNSP obligations under the National Electricity Rules and the AER's Consumer Engagement Guideline. DNSPs are required to engage genuinely, early, and transparently with affected consumers, and to demonstrate how feedback has shaped their proposals. Ausgrid presents the CPN as "no downside" for customers, but it is in fact a model that externalises risk onto the broader customer base while internalising control of assets and markets for Ausgrid.

A Dangerous Precedent

The flaws in Ausgrid's proposal also go beyond poor financial design. They strike at the heart of the sandbox framework itself. The sandbox was designed to lower barriers to genuine innovation, not to provide a regulatory loophole for networks to expand into contestable markets. By misusing emissions guidance, layering cross-subsidies, and denying consumer choice. By introducing export charges for all solar households while subsidising a chosen few, it is not building equity but distorting it. By promising fragile dividends while denying opt out, it is not protecting consumers but eroding their agency.

Approving this waiver would not just harm consumers in two trial zones. It would set a precedent that other DNSPs would quickly seize. The careful separation of monopoly and contestable roles, one of the pillars of Australia's energy reform journey would begin to unravel. The sandbox would shift from being a tool for experimentation into a back door for monopoly expansion.

It is especially important to resist this outcome given the AER's own role in encouraging DNSP-led sandbox applications. While the intent was to test orchestration, the effect has been to invite monopoly-expanding proposals like this. Rigorous scrutiny is therefore essential and expected to be undertaken. To outright approve Ausgrid's trial would damage the credibility of the sandbox regime and undermine consumer trust in the AER's ability to safeguard competition.

We have provided comments on each of the Innovative Trial Principles under Energy Laws ad Regulations that are required to be considered by the AER when assessing trial waiver applications.

Assessment of Alternatives

An additional fundamental weakness of Ausgrid's CPN proposal is its absence of assessment of credible alternatives have been assessed. The AER has consistently emphasised that innovation funding and waivers must be grounded in evidence that the proposed activity is genuinely transformative, not business-as-usual in disguise, and that alternatives have been considered transparently.

Ausgrid has already trialled orchestration approaches under Project Edith. That project delivered some technical learnings, but as stakeholders observed in workshops, it also raised questions about consumer

engagement, equity, and scalability. Rather than iterating on those findings and working with retailers, aggregators, and community operators to refine better models, Ausgrid has largely ignored those lessons in this proposal.

There are parallels with Ausgrid's recent Network Innovation Program proposal. In its 2024–29 revenue proposal, Ausgrid sought funding for an innovation program covering a suite of trials and pilots. The AER rejected the bulk of this program. It found that many projects were not innovative, were overstated in volume or scale, or amounted to business-as-usual activities. The AER was explicit in their determination: innovation funding must be "genuinely transformative," limited to untested concepts or techniques, and carefully scoped to trial and pilot phases. Projects that were already proven elsewhere, or had positive business cases, should instead be advanced as business-as-usual. The CPN repeats precisely the same error. DNSP-led ownership of solar and batteries is not novel; it is a known solution already proven in multiple jurisdictions and markets. To call it innovation and seek a waiver is inconsistent with the very thresholds that led the AER to reject Ausgrid's earlier proposals.

Equally significant is Ausgrid's decision not to subject the CPN to a Regulatory Investment Test for Distribution (RIT-D). The scale of the proposal is far above the $6 million RIT-D threshold. The RIT-D is the established mechanism for ensuring that DNSP expenditure is efficient, that non-network alternatives are considered, and that the option with the greatest net market benefit is selected. Had Ausgrid followed this process, it would have been required to publish a Non-Network Options Report, consult with stakeholders, and evaluate its model against competitive alternatives such as retailer or aggregator-led orchestration. All available evidence suggests these competitive approaches are more cost-effective and consumer-friendly than DNSP ownership.

Actions for the AER

The CPN application highlights areas where the AER's approach to innovation and ring-fencing could benefit from further clarification. By addressing these points, the AER can strengthen consumer protections and reinforce confidence in the regulatory regime.

First, the AER should expedite the publication of its proposed guidance note on the assessment of innovation proposals. In its 2024–29 Final Decision on Ausgrid, the AER made a commitment to release guidance that would set expectations for innovation trials, including the requirement that projects be genuinely transformative, appropriately scoped, and clearly distinct from business-as-usual activities. Unless missed, that guidance has yet to be released.

Second, the AER should review how ring-fencing waivers are granted, monitored and enforced. The CPN represents another instance of a network asserting, in effect, "trust us not to self-preference," while seeking to own and operate assets in contestable markets. History shows that such assurances are insufficient. The review should examine not only whether waivers should be granted in the first place, but also whether compliance monitoring and enforcement are robust enough to prevent networks from subtly crowding out

competitive providers. Without meaningful oversight, and often only annual reporting obligations, the sandbox risks becoming a vehicle for monopoly expansion rather than a testbed for consumer benefit.

Third, the AER should reinforce the obligation for DNSPs to test alternatives. Whether through the RIT-D or through innovation frameworks, DNSPs must be required to demonstrate that they have engaged with retailers, aggregators, and demand response providers to consider whether competitive solutions could deliver the same or better outcomes. In the case of the CPN, Ausgrid has not met that bar. A waiver that ignores this omission would send precisely the wrong signal to the market: that networks can avoid contestable scrutiny.

By taking these actions, the AER can uphold the integrity of the sandbox regime, prevent precedent creep, and ensure that consumers benefit from genuine innovation rather than regulatory arbitrage. The CPN should be rejected, and the lessons used to tighten the framework for future applications.

Conclusion

Through every lens the AER has explicitly asked stakeholders to consider in its Issues Paper, Ausgrid's Community Power Network proposal fails. On consumer protections, it locks households into a five-year compulsory scheme without opt out. On competition, it crowds out private providers with monopoly-owned assets underwritten by the RAB. On market failure, it falls flat, as ARENA, the Cheaper Home Batteries Program, and Tesla's South Australian VPP show that storage, orchestration, and equity are already being delivered. On alternative models, it ignores solutions like SAPN's proposed Local Flexibility Marketplace and network data transparency that would stimulate markets without monopoly expansion.

The AER should reject Ausgrid's waiver application. Instead, Ausgrid should focus on its role: providing transparent network data, enabling competitive providers, and supporting consumers without dismantling the separation of monopoly and market. That is how the sandbox can fulfil its true purpose, accelerating innovation while protecting competition in the long-term interests of consumers.

Table 1: Innovative Trial Principles – Energy Laws

Requirements	Tesla comments
Whether the trial project is focused on developing new or materially improved: • approaches to the use or supply of, or demand for, electricity • customer connection services or customer retail services • natural gas services	The proposal for DNSP-owned solar/batteries and orchestration are not novel; they're already delivered by competitive providers and programs (VPPs, community batteries, Cheaper Home Batteries). Waiving these rules is regulatory arbitrage, not reasonable innovation.
Whether the trial project is likely to contribute to the achievement of the national energy objectives	Costs are socialised while benefits flow to a narrow cohort. Network prices in Ausgrid's patch are rising regardless; CPN doesn't credibly lower prices or improve quality beyond what transparent data could and competitive markets already deliver. Biggest improvement would be for Ausgrid to do the assessment, provide visibility and work with market players to deliver innovative solutions.
Whether the trial project is able to demonstrate a reasonable prospect of giving rise to materially improved services and outcomes for consumers of energy	Dividends rely on unpredictable arbitrage; $11 in year 1 with no opt-out for five years. Consumers outside trial pay ~40% of costs and receive nothing. This is not a reliable pathway to materially improved outcomes.
Whether the trial project maintains adequate consumer protections, including whether the trial	Enrolment with no opt-out for five years is inconsistent with the NERL/NERR expectation of explicit informed consent for retail-like products. Risk allocation is asymmetric: customers fund RAB costs; Ausgrid "covers" only dividends.

project may involve risks to consumers and (if so), how those risks might be mitigated	
Whether the trial project is unable to proceed under the existing regulatory framework	The barriers to this trial are protective by design, not market failure. Ring-fencing exists to prevent monopoly entry into contestable markets. There are credible alternatives (data transparency, flexibility marketplaces, retailer/aggregator delivery) that don't require a waiver.
Whether the trial project has moved beyond research and development stages but is not yet established, or of sufficient maturity, size or otherwise commercially ready, to attract investment	CPN seeks major deployment (70 MW PV, 130 MWh storage) with unproven financial assumptions (VER capitalisation and optimistic "self-funding"). Competitive market pilots already demonstrate maturity without the complication of direct DNSP ownership.
Whether the trial project may negatively impact AEMO's operation of the national energy systems and national energy markets or AEMO's facilitation of customer connection services and customer retail services and, if there are impacts, how those impacts can be mitigated	A DNSP acting as asset owner/aggregator risk's role confusion in dispatch/constraints, complicating AEMO visibility and retailer/VPP operations. Ausgrid's papers don't set out robust market-interface risk controls or neutrality safeguards.
Whether the trial project may impact on competition in a competitive sector of a national energy market	RAB funding and privileged data/control gives Ausgrid an unfair advantage over retailers/VPPs, chilling private investment. Participation impairs consumer choice and switching neutrality within trial zones.

Table 2: Innovative Trial Principles – Energy Regulations

Requirements	Tesla comments
Whether the trial project is able to be trialled and evaluated	Evaluation gaps. KPIs are dividend-centric and market-dependent, no robust plan for open data, independent measurement, or counterfactuals. "Self-funding" depends on spreads, undermining evaluability.
Whether there is potential for the trial project to be successfully expanded	A monopoly-owned model doesn't scale competitively and is not replicable by others without waivers. True scalability is via BTM/VPP and market platforms (e.g., SAPN flexibility trial proposal), not DNSP asset ownership.
Whether the trial project will provide for public sharing of knowledge, information and data resulting from the trial project.	No commitment to publish granular network/operational data that would let others replicate or challenge results; risk of commercial-in-confidence shielding key learnings while the DNSP retains advantage.