

1 DECEMBER 2023

Submission to the Australian Energy Regulator Direction Paper: Social license for electricity transmission projects

Delivering for nature, communities, landholders, and traditional owners through Transmission Projects.

Recommendations*

Recommendation 1: *The AER (and other regulators and government agencies) require transmission businesses undertake the genuine and best practice engagement needed throughout all stages of transmission projects.*

Recommendation 2: *The AER work towards defining and standardising expectations for community engagement, starting with an expansion of its selection of reference best practice guides beyond those developed by industry and include guidance from broader stakeholders, such as the Community Power Agency, Re-Alliance and the European Renewables Grid Initiative, including for benefit sharing, and work towards standardising best practice.*

Recommendation 3: *The AER distill what constitutes best practice to ensure all transmission companies achieve the best outcomes for communities and ensure transmission projects result in nature protection and regeneration. This is not developing new guidance, but standardising and optimising the existing guides through broad consultation, and ensuring they are adhered to by all transmission businesses.*

Recommendation 4: *AER work with state and federal governments to develop a national education program around the need for and benefits of the energy transformation. In consultation with communities, this should include identifying who would be the best local, regional and national organisation to implement such a program.*

(Note: ACF refers the AER to our recommendations in our recent submission to the AEIC's review of community engagement social license).¹

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https://assets.nationbuilder.com/auscon/pages/22674/attachments/original/1696455407/Sub_AEIC_Community_Engagement_Review.pdf?1696455407



Introduction

The Australian Conservation Foundation (ACF) welcomes the opportunity to comment on the Australian Energy Regulator's (AER) *Direction Paper: Social licence for electricity transmission projects*. The paper aims to clarify how the AER should best address social license issues under the current regulatory framework governing transmission investments.

Social license should not be seen solely as acceptance by a community of a specific project, but also the understanding of the need for the broader energy transformation, as well as genuine engagement with the community and identifying broader needs of the community. This includes ensuring the wider community experiences positive impacts through agreeing to host energy infrastructure, through community benefit sharing beyond directly affected and immediately adjacent landholders. Social license means the community actively supports the project and the broader energy transformation and the potential benefits that come with it.

While this paper is in reference to transmission projects, in particular reference to the Integrated System Plan (ISP) and the Regulatory Impact Test–Transmission (RiT-T), communities may not always understand the difference from large scale renewable energy generation projects. The RiT-T is also a limited process, looking at the costs (market benefits) of proposed projects. However, including some of the broader opportunities for positive impacts, such as processes to optimise benefit sharing, identifying opportunities to protect or regenerate nature, and genuine engagement to identify community needs, should be included to provide communities with trust that the broader long term engagement will be effective, inclusive and in good faith. This includes broad genuine community engagement, allowing transmission businesses to:

- Identify which options they should consider to address the electricity system's needs
- Understand the impact and feasibility of those options
- Better forecast the costs of options to identify which has the maximum net benefit.

The energy industry, energy regulators and other stakeholders need to ensure that social understanding and license is built for both the project and entire energy system levels. The AER needs to consider how the RiT-T will contribute to both of these in developing guidance for transmission companies as part of the RiT-T.



ACF has recently submitted to the Australian Energy Infrastructure Commissioner (AEIC) led Community Engagement Review,² and we refer the AER to our earlier submission, as our recommendations remain consistent. We nonetheless make additional comments and recommendations below in the context of the role of the AER to enable best practice and genuine engagement by TNSPs.

ACF is Australia's national environment organisation. We are over 500,000 people who speak out for the air we breathe, the water we drink, and the places and wildlife we love. We are proudly independent, non-partisan and funded by donations from our community. ACF understands Australia and the world face an unprecedented climate and mass extinction crisis caused first and foremost by digging up and burning fossil fuels like coal, oil, and gas. We also note that poor development practice means unnecessary damage to nature, and the loss of trust with landholders and communities. While we need a significant build of new clean and renewable energy, and the transmission to enable it, this can and should be done without damaging natural areas. We do, however, acknowledge that this also a race against time to ensure we have security of supply in place well ahead of the announced closure dates for significant coal-fired assets.

Role of the AER

Communities and nature are facing real and significant impacts of climate change, while any inappropriate development would exert a threat to biodiversity loss, including loss of forests, wetlands and other natural habitats.³ Done well, the impacts of the energy transformation can be positive and regenerative, but some poor practice has led to poor outcomes. Meanwhile a lack of explanation of the energy transformation process has left many in the community confused and hesitant. Unfortunately social license has been eroded at precisely the time Australia needs a significant and rapid increase in large scale renewable energy and transmission developments that new energy relies on. This is a consequence of poor communication and engagement and adverse impacts from poorly implemented projects.

ACF understands that social license is one of the biggest barriers facing energy transformation, yet we hear resistance from some industry representatives, that including significant better practice community engagement and community benefit sharing is unnecessary. Unfortunately, the impacts of these attitudes from proponents can be seen playing out in community resistance and delaying of projects.

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³ <https://www.unep.org/news-and-stories/story/five-drivers-nature-crisis>



The AER notes in its paper, however, that “successful investment in this infrastructure requires a serious effort from the sector, particularly transmission businesses, to closely engage with, and respond to, the needs of communities, First Nations and landholders.”

Recommendation 1: *The AER (and other regulators and government agencies) require transmission businesses undertake the genuine and best practice engagement needed throughout all stages of transmission projects.*

Recommendation 2: *The AER work towards defining and standardising expectations for community engagement, starting with an expansion of its selection of reference best practice guides beyond those developed by industry and include guidance from broader stakeholders, such as the Community Power Agency, Re-Alliance and the European Renewables Grid Initiative, including for benefit sharing, and work towards standardising best practice.*

All energy consumers and communities need to see best practice and trust that it is embedded in all energy planning and development. The AER needs to provide strong guidance and oversight. ACF also suggests that the AER and TNSPs are cognisant of community expectations when developing guidance, not just AERs expectations as listed in the directions paper. The directions paper notes there are a number of best practice guidelines available, but list mostly industry guides in the directions paper. To achieve a more holistic approach, ACF recommends AER work towards defining and standardising the expectations for project proponents to achieve consistency and best practice outcomes.

In the short term ACF suggests the list of guidelines be expanded to ensure breadth of scope in terms of identifying broad community needs, genuine engagement, and multiple benefits. For example there are community benefit sharing guides that will allow TNSPs to attain social license, such as the recently released discussion paper by the Community Power Agency.⁴ Other guidance that should be included in AER’s review are the Re-Alliance Guide to Benefit Sharing,⁵ the Clean Energy Council’s Community Engagement Guidelines for Building Powerlines for Renewable Energy Developments,⁶ and the European Renewables Grid Initiative’s acceptance resources. ACF notes the inclusion of First Nations Clean Energy Network’s Best Practice Guides in the directions paper, and we wholeheartedly support their best practice principles being required by transmission businesses.

A key issue that needs to be improved and clarified in best practice guidance is transparency, such as who is consulted with, why a particular route, identifying alternatives including demand reduction and other non-network solutions, and how community benefits were decided on. The AER needs to include guidance on how TNSPs should provide transparency.

⁴ <https://cpagency.org.au/is-regional-benefit-sharing-the-new-frontier-for-australias-renewable-energy-shift/>

⁵ <https://www.re-alliance.org.au/benefitsharing>

⁶ <https://www.cleanenergycouncil.org.au/advocacy-initiatives/community-engagement/community-engagement-guidelines-for-building-powerlines-for-renewable-energy-developments>



A note on costs of Social License

There are significant costs to failure in achieving social license. These include delays and project alterations, potentially leading to missed economic opportunities that may not have occurred if best practice had been followed. The biggest cost, however, which will impact all Australians, including our people, flora and fauna, is if we fail to reach our net zero targets through the economic, social and environmental impacts of climate change. Further, not all benefits (and disbenefits) are “market benefits” that can be quantified. This is all noted in the discussion paper. Nonetheless, expenditure at the project development stage to ensure transmission companies complete genuine engagement, following best practice, and identifying benefit sharing that the community needs, should be considered an investment in our nation’s future. In addition, such a broad and genuine engagement process will likely identify and reduce the future financial costs through appropriate community benefit programs throughout the project’s lifetime.

Best Practice

Recommendation 3: *The AER distill what constitutes best practice to ensure all transmission companies achieve the best outcomes for communities and ensure transmission projects result in nature protection and regeneration. This is not developing new guidance, but standardising and optimising the existing guides through broad consultation, and ensuring they are adhered to by all transmission businesses.*

ACF understands the position in the direction paper that there are several best practice guides available, and that there is no need to develop a new guideline. We do note, however, that there is no standard approach. The discussion paper notes that transmission businesses are already required or have publicly committed to meeting certain best practice engagement principles and outcomes, yet they have failed to attain social license. This would suggest the available guidance is not fit for purpose or not being followed. Given the scale of transmission development required, transmission companies need to follow best practice, not minimum practice. The poor record to date in some areas, for example, has left some farmers effectively locking the gate to TNSPs trying to gain access, even if they support renewable energy and the need for more transmission. Some landholders have rejected offers of significant compensation, demonstrating this is not just a financial concern, but one of livelihood, culture, control, fairness, trust and accountability. Forcing access through regulation and compulsory acquisitions, as AusNET is indicating may be needed as a last resort,⁷ may risk attaining social license if communities feel their concerns are not being addressed.

⁷ <https://www.abc.net.au/news/2023-11-28/renewable-energy-transition-community-pushback-emissions-targets/103154364>



Principles and common themes in the guides need to be drawn out to ensure consistency and breadth, and there is a need to clarify what from the existing best practice guidelines do in fact constitute best practice. In addition, there is the recently released discussion paper on community benefits by the Community Power Agency⁸ that was developed through their work with affected communities, as well as guidance from Re-Alliance⁹ that will be of relevance. ACF supports the use of and the principles set out in the First Nations Clean Energy Network's Best Practice Guides.

In addition, recent research on behalf of Powerlink conducted by Curtin University and the University of Queensland on underground and above ground cabling, included a review of best practice on the Social and Cultural Aspects of transmission lines.¹⁰ They give several examples of good and best practice guidance, and distil what this looks like. This includes requirements for good governance for gaining a social license that included the need to be inclusive of all stakeholders and the importance of process, including distributive and procedural justice considerations, and collaborating in authentic, meaningful and just ways that share genuine benefits across all groups inclusive of First Peoples' Communities, proponents, developers, companies, and other rights-holders and stakeholders.

As noted in our submission to the AEIC,¹¹ there are benefit sharing options besides direct payments that allow developers to contribute to the communities in which they operate, that will also build social license. Benefit sharing need not be just about monetizing benefits and compensation for landholders, but ensuring the entire community shares and benefits from the energy transformation. This can be through provision of services or infrastructure needs, regenerative design to include ecosystem services, community development initiatives, supporting local organisations and innovation through training and capacity building, co-ownership, or neighbourhood improvements.

While there is a clear urgency for actionable projects under the ISP, consultation cannot be rushed and communities must be treated with respect. Consequently, the AER needs to provide guidance on how to best work with communities to identify the solutions the community needs. As noted by several submissions into the AEIC review on social license, consultation needs to be wider than landowners, as there are other impacts and opportunities for the broader community. It is unlikely that social license will be achieved by TNSPs (and renewable project proponents) without broader consultation. There are

⁸ <https://cpagency.org.au/is-regional-benefit-sharing-the-new-frontier-for-australias-renewable-energy-shift/>

⁹ <https://www.re-alliance.org.au/benefitsharing>

¹⁰ <https://research.curtin.edu.au/ciet/engagement/publications/transmission-infrastructure/>

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examples of partnerships with local government,¹² and it may be that the transmission companies themselves are not the best to be seen leading the engagement.

ACF acknowledges a tension exists between the need for rapid deployment of renewables and ensuring that renewable projects protect Australia’s high-value ecosystems, habitats, and species. Carefully planned siting, and requirements for nature positive design criteria of renewable energy projects are two essential elements to enable this protection. It is vital that the community and organisations with nature expertise are engaged throughout both ISP and RiT-T processes, and that the community understands that renewable energy, that is good for nature and people, is essential to addressing climate change and protecting all life.

The AER needs to ensure that the engagement and negotiation processes have binding outcomes to ensure that any benefit sharing agreed to during transmission planning will be implemented. One option worth investigating is the Community Benefit Agreements model, as discussed in our “A Real Deal for Gladstone” report.¹³

Community Education

Recommendation 4: *AER work with state and federal governments to develop a national education program around the need for and benefits of the energy transformation. In consultation with communities, this should include identifying who would be the best local, regional and national organisation to implement such a program.*

As the paper notes, “Building social licence is ... an important part of doing business in the energy sector.” ACF views social license as essential for the energy sector transformation process. Best practice is required at the project level, but there is a role for the Federal and State Governments to work with energy regulators, industry, transmission companies and recently established government agencies and programs, such as Rewiring the Nation and the National Energy Transformation Partnership (NETP) to develop and run a nation-wide community education and engagement program to build the social license and trust for the need for renewable energy and transmission at the scale needed for the energy transformation required.

¹² <https://reneweconomy.com.au/regions-lead-plan-for-huge-new-transmission-link-and-4-2-gw-of-solar-and-storage/>

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[https://assets.nationbuilder.com/auscon/pages/22309/attachments/original/1690422685/Final Gladstone Report compressed.pdf?1690422685](https://assets.nationbuilder.com/auscon/pages/22309/attachments/original/1690422685/Final_Gladstone_Report_compressed.pdf?1690422685)



Government stakeholders also need to consider the impact of consultation fatigue for communities negotiating multiple transmission and renewable energy project proponents. A broader education program would help reduce duplication and for community resourcing for engagement.

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