

1 December 2023

Ms Stephanie Jolly  
A/Executive General Manager – Consumer, Policy and Markets  
Australian Energy Regulator (AER)

By online submission

Dear Ms Jolly,

**AER Directions Paper – Social Licence for Electricity Transmission Projects**

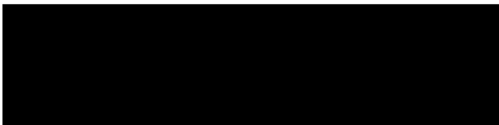
The Australian Energy Market Operator (AEMO) welcomes the opportunity to comment on the AER's Directions Paper on social licence for electricity transmission projects. It is timely to consider how social licence issues can best be addressed under the regulatory framework that governs transmission network planning and investment.

We recognise that many Transmission Network Service Providers (TNSPs) are already undertaking comprehensive stakeholder engagement and have committed to best practice engagement principles and outcomes. Also, Australian Governments and the Australian Energy Infrastructure Commissioner are signalling reforms to build social licence for energy infrastructure. Integrating social licence considerations into the regulatory framework will provide certainty to both TNSPs and communities, which will improve the quality of planning and timely delivery of transmission infrastructure required for the transition to net zero emissions.

We have provided some perspectives on the questions posed in the Directions Paper in Appendix 1 below.

If you would like to discuss anything further, please contact Kevin Ly, Group Manager – Reform Development & Insights ( [REDACTED] ).

Yours sincerely,



Violette Mouchaileh  
**Executive General Manager – Reform Delivery**

## APPENDIX 1: AEMO'S VIEWS AND INSIGHTS ON THE DIRECTIONS PAPER

### General comments

AEMO welcomes the proposed integration of social licence considerations into the AER's regulatory functions for electricity transmission network planning and investment. Measures to better enable TNSPs to build and maintain social licence for ISP projects is a vital part of ensuring the timely and efficient delivery of transmission network projects, which are key to achieving a net zero emissions economy in Australia.

### Comments on specific elements of the Directions Paper

AEMO's views on the questions posed in the Directions Paper (where relevant) are set out below.

#### 1. Engagement to support social licence

##### 1.1. *Are the expectations in this chapter an appropriate approach for the AER to take?*

AEMO supports the AER's expectation that TNSPs (including AVP) will meet, and explain how they have met, the Rule requirements and relevant jurisdictional policies and guidelines.

AEMO also supports the proposed expectation by the AER that TNSPs undertake best practice engagement in accordance with broadly accepted guidance in the sector and agree that additional AER guidance at this stage could create potential confusion for stakeholders and risk duplication. There is an existing body of work on best practice engagement principles that can and should be leveraged. AEMO notes that the timing of engagement is an important factor and that there are certain stages during the project planning and investment process where 'best practice' engagement might be light touch.

Embedding the proposed expectations in the AER's regulatory processes will provide clarity and enable consistency among TNSPs regarding engagement with relevant stakeholders throughout future RIT-T processes.

AEMO also notes work being undertaken by jurisdictional governments, the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW), energy businesses through the Energy Charter and the Australian Energy Infrastructure Commissioner in building social licence.

While the whole sector has a role to play in addressing social licence issues, AEMO is of the view that for specific projects the project proponents have primary responsibility (noting that currently AEMO Victorian Planning function is primarily responsible in Victoria as the Victorian Planner). Jurisdictional governments and planning bodies play a key role. Social licence issues are often region specific, and jurisdictions are best placed to consider how to build community acceptance for energy infrastructure within their regions. Large transmission investments are major infrastructure projects that are likely to have both positive and negative impacts on host communities. AEMO will look to support project proponents, where appropriate, in their engagement.

##### 1.2. *What additional guidance on engagement may be needed?*

As part of the update of the AER Cost Benefit Analysis (CBA) Guidelines, it will be important to clarify how the AER intends to make a judgement call on whether a TNSP has undertaken

engagement that is considered ‘best practice’ at different stages of the project lifecycle. Given that building and maintaining social licence requires different activities depending on the unique nature of a project, attempting to define a minimum requirement level would be impossible to determine. Requirements may differ according to the location of the project, as well as the date in which it is to be built (given that community expectations are likely to change over time). AEMO would like to understand the role of the AER’s Consumer Challenge Panel, if any, in informing assessments made by the AER.

AEMO welcomes the AER commitment to provide greater guidance in 2024 on how social licence issues can be defensibly quantified and included through the noted elements of the framework, particularly given the risk of NIMBYism.

AEMO recognises that community engagement needs and preferences will vary greatly across and within regions and communities, therefore AER assessments will need to consider locally-specific factors.

*1.3. What other publicly available guidance should transmission businesses consider?*

DCCEEW are developing a national approach for gaining, maintaining and measuring social licence for electricity transmission projects. Guidelines are expected to be available by June 2024.

*1.4. Should any elements be removed from our expectations?*

AEMO does not consider that any elements should be removed from the AER expectations.

*1.5. Are there any barriers to transmission businesses meeting these expectations?*

The changes proposed in the Directions Paper are unlikely to impact any new RIT-T processes prior to the 2026 ISP if they align with the transitional arrangements provided for in the AEMC’s final rule on enhancing community engagement in transmission building.

**Electricity transmission planning and economic assessment framework (ISP and RIT-T)**

*1.6. Are there other ways in which social licence issues can be considered as part of the ISP and RIT-T processes under the current rules?*

AEMO agrees that changes to the regulatory framework to better enable TNSPs to undertake appropriate early engagement with communities likely to be impacted by transmission network development will lead to better consideration of social licence issues in RIT-T decision making. The information gathered during early engagement will render certain project options unfeasible, at high risk of delivery delays or identify costly expenditure required to address community concerns.

*1.7. Are there any changes we should make to the approach in this chapter?*

AEMO does not propose any specific changes.

*1.8. Where should we focus on in providing further guidance to the sector when updating our guidelines?*

The updated CBA Guidelines could provide further clarity to TNSPs on the types of activities that would be considered appropriate to build and maintain social licence across the economic assessment process. Alongside this, examples of how these activities would recover costs

would provide greater certainty and clarity to TNSPs, thereby encouraging TNSPs to undertake activities to promote community acceptance and timely delivery of ISP projects.

## 2. Cost recovery

### 2.1. *Is there additional guidance required immediately to support cost recovery for social licence related expenditure?*

AEMO appreciates the need for greater clarity and certainty around cost recovery arrangements for social licence related activities. AEMO agrees that efficiency is not about minimising engagement costs but should be based on the anticipated outcomes from the expenditure and how the expected benefits compare to the costs.

### 2.2. *Does this process provide sufficient conditions to ensure that the costs recovered from consumers are prudent and efficient? How much input should transmission business consumer engagement have in relation to social licence expenditure?*

The Directions Paper proposes that the AER “will assess how the expenditure proposed compares across businesses and to their other engagement activities”. Each ISP project is unique and there are likely to be legitimate reasons for differences in expenditure across TNSPs and projects. While some insights may be gained from comparison across different projects, given the uniqueness, comparison is unlikely to be a robust basis upon which to determine relative efficiency of expenditure.

AEMO seeks further clarity on how the AER’s proposed “flexible approach that enables TNSPs to adopt an approach that is tailored to the context of the community and project” will be given effect in practice. This includes on what basis the AER is taking account of the different needs and attributes of different local communities and the differences in community sentiment towards energy infrastructure across different regions. The AER’s assessment approach will also require flexibility to enable TNSPs to determine the engagement approach that is appropriate for each stage of the project lifecycle. Specifically, the AER should consider the guidance from the Australian Energy Infrastructure Commissioner (AEIC) who states “*while early engagement with the community is encouraged, going public too early may have unintended consequences. Presenting a ‘multi-corridor’ option approach to the broader community and asking them to help select the final proposed transmission line route can inflame a wide cross-section of the community and create animosity and division between community members as they lobby to eliminate candidate corridors that affect them.*”<sup>1</sup> AEMO believes that engagement needs to be appropriate to the stage of the project, and thus we expect this consideration to be part of the AER’s proposed approach to providing flexibility. It is important that any assessment acknowledges the unique nature of each ISP project, and does not expect a rigid approach which may restrict the ability of each TNSP to build and maintain social licence with individual communities.

The approach to assessing social licence expenditure proposed in the Directions Paper appears to be at a more granular level than the AER’s general expenditure assessment approach. TNSPs may require further clarity on the evidence required to submit to the AER when justifying expenditure, which creates uncertainty on what costs can be recovered. In addition, more

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<sup>1</sup> [Australian Energy Infrastructure Commissioner Annual Report to the Parliament of Australia](#)

granular assessments may take more resources and time to undertake. These two components may reduce the likelihood of the timely delivery of ISP projects. Given this risk, we do not think a more granular assessment is neither necessary nor desirable.

AEMO considers that individual proposed social licence activities should not be assessed in isolation but should be considered as a package of measures whose cumulative benefit may be greater than the benefit of each in isolation.

- 2.3. *Does this guidance potentially restrict costs from being recovered that a transmission business would reasonably expect to incur to support building and maintaining social licence?*

Social licence for large infrastructure projects needs to be built and then managed and maintained across multi-year timeframes. AEMO's view is that the cost recovery process for social licence engagement/activities should be designed to be able to respond to changing contexts and/or extenuating circumstances to facilitate timely delivery of ISP projects. Waiting for a project to be 'actionable' and commence a RIT-T means that it would be too late to gain community acceptance. The ISP provides an opportunity to help to gain community acceptance earlier on, and it is important that the regulatory framework is able to support this.

In order to support TNSPs to build and maintain social licence earlier in the transmission investment process, AEMO's view is that the AER should not hold a default assumption that 'social licence activity expenditure' would not be included at the stage 1 early works phase. There are likely to be some activities, such as design to minimise visual impacts or geotechnical studies to investigate undergrounding, that would be undertaken during the stage 1 early works phase.

- 2.4. *What areas should we focus on in providing further guidance to the sector?*

AEMO does not propose any additional areas of focus.