30 November 2023

Australian Energy Regulator (AER)
Sector: Electricity
Segment: Transmission

Submission to the Directions Paper – Social licence for electricity transmission projects

Dear AER

The Australian government has set its renewable energy and carbon reduction targets of 82% renewable generation and 43% emissions reduction from the 2005 level by 2030. The energy sector must build a reliable, efficient and affordable transmission network to enable these targets. The Australian Energy Market Operator's (AEMO) Integrated System Plan (ISP) identifies more than 10,000 km of new transmission lines to achieve net-zero. Over 5,000 km of the transmission infrastructure is required in less than a decade.

As AER's Directions Paper highlighted, effective community engagement is fundamental to gaining the social licence needed to expand the transmission network. Earning the social licence significantly enhances project assurance, reduces potential cost overrun and facilitates trust among all interested parties to maximise social and economic values. There is an increased focus on early engagement for renewable and transmission projects, setting the foundation for timely infrastructure delivery to achieve net-zero.

Recent community oppositions have, however, created significant uncertainty for several major wind, solar and transmission projects, claiming that they cause social and environmental harm while passing on billions in extra costs to consumers. The Institute for Infrastructure in Society (I2S) at the Australian National University has consecutively found stakeholder and community pressure among the top three most influential factors contributing to project delays for the past five years (2017-22). The experience and current gridlock call for a more consistent approach to engagement so proponents, such as transmission businesses, can minimise the negative impacts of new infrastructure affecting local communities.

I welcome the AER's timely release of the Directions Paper on social licence for electricity transmission projects, and the opportunity for public feedback on the engagement expectations, outcomes and a more prudent cost recovery model for transmission network service providers (TNSPs). I anticipate the Final Paper will incorporate public feedback to

guide the tangible treatments of social licence concerns and other stakeholder interests in fostering best practice community engagement for the whole energy sector.

AER's role and expectations in implementing the new Rules

In the current process of seeking stakeholder input into the Directions Paper, the AER noted that several policy reviews, rule changes, and best practice guidelines are already occurring in the broader energy markets. These include:

- the Australian Energy Infrastructure Commissioner's (AEIC) review of community engagement practices
- the Energy and Climate Change Ministerial Council's review of the Integrated System Plan, including social licence considerations to the barriers to the planning and construction of ISP projects.
- the Australian Energy Market Commission (AEMC) rule change processes on:
    - Enhancing community engagement in transmission building
    - Improving the workability of the feedback loop
- individual state governments on developing REZ policy and legislation for community engagement requirements.

In my recent submission to the AEMC rule change on enhancing community engagement in transmission building, I commended the AEMC for expanding the definition of 'interested parties' and introducing 'minimum standards' expectations to improve engagement clarity and consistency for transmission projects.

While the new Rules, which come into effect on 5 December this year, set the mandatory engagement requirements (the 'Why') for major transmission projects and a broader definition of interested parties (the 'Who) to be engaged, I consider the AER to play a more prominent role in guiding TNSPs on the 'How' for building social licence and local community acceptance. In implementing the new Rules, I agree that the AER would expect TNSPs to meet and explain how they have met the Rules' requirements and relevant jurisdictional policies and guidelines. However, it would be challenging for the AER to measure 'best practice' of each TNSP's engagement approach. The community engagement sector represents a broad church of doctrines of what 'best practice' shall involve, from the IAP2 engagement spectrum, the International Association for Impact Assessment, to the Infrastructure Engagement Excellence (IEE) Framework, developed by the Crawford School of Public Policy, to name a few. 'Best practice' and corporate social licence also become more legitimate if granted by impacted stakeholders who are part of the process rather than the regulatory authority.

The AER works to advocate for energy consumers' long-term interests by ensuring they pay no more than necessary for energy to their homes and businesses. For TNSPs, the AER determines the maximum revenue a network business can earn and ensures a prudent cost-benefit analysis is assessed for new infrastructure. AER's powers and expertise sit within the assessment of economic performance and compliance within the energy supply chain. When considering AER's role in enforcing the new National Electricity Rules (NER) for engagement requirements, it is important that the AER remains authentic to its core expertise so investments proposed by TNSPs ultimately lead to better customer value and a more cost-efficient delivery path.

Better benchmarking drives better social licence outcome

Concerning the process and criteria that the AER should apply to the assessment of expenditure related to engagement for TNSPs to build and maintain social licence, I agree that the project proponent must provide the AER with:

- an engagement plan outlines the engagement approach to build and maintain social licence
- a activity plan (action plan) outlines the social licence activities in response to engagement feedback to build and maintain social licence.

The AER's recommendation coincides with my submission to the AEMC's rule change on enhancing community engagement for major transmission projects, which can be found here. In my submission, I advocated to the AEMC that in interpreting the new Rules, all transmission project proponents must reflect elements of the community engagement expectations in an overarching community engagement plan. The engagement plan should be place-based and project-specific. The AEMC referenced my suggestion in its Final Determination on section 3.2, *Clarifying how TNSPs are expected to engage with local community*, which can be viewed here (p.30).

I also agree with the AER that any costs incurred by the TSNP to build and maintain social licence must be quantifiable, prudent and efficient. Before the AEMC's rule change, transmission businesses already carried out community and stakeholder engagement, to a certain extent, as part of their needs analysis or corridor study. A level of maturity for TNSPs should already be in place to understand the resources and time required for conducting community and stakeholder engagement activities. While the community broadly welcomes the new Rules as providing clarity and certainty on engagement expectations, the legislative framework may lead to the perception of an increase in revenue allowance for engagement. This may not represent the best interest of end-users who ultimately foot the bill for building new transmission infrastructure. When assessing the cost proposals submitted by transmission businesses, the AER should note that any proposal by TNSPs to recover additional costs for building and maintaining social licence must be quantifiable with data, justifiable with social research and materialised in a way that leads to better customer outcomes. The economic principle of prudent investment, ensuring energy consumers pay no more than necessary for energy to their homes and businesses, must always be upheld and maintained.

In my submissions to the AEMC's rule change consultation as well as the AEIC's review of community engagement practices, I advocated for expanding the AER's CCP and CCG functions as an independent committee to make recommendations on the quality of TNSPs' community engagement activities. Some of the CCP members have more than a decade of energy industry experience, frequently contributing to a range of regulatory proposal reviews to ensure consumers' long-term interests are protected. Advice from the CCP will complement the AER's core function and prevent the assessment of social licence activities from becoming an arbitrary exercise.

On the point about benchmarking the expenditure proposed by TNSPs, I acknowledge that each transmission business will have varying baseline levels of social licence in their communities and perhaps a differing maturity level of understanding community engagement. However, this presents an opportunity for the AER to establish an industry-

wide benchmarking mechanism to help measure the effectiveness of engagement activities proposed by TNSPs. The benchmarking mechanism will help determine whether the costs for building social licences have contributed to a better customer outcome, smoothing delivery pathways and reducing stakeholder pressure.

Community engagement and the cost of building and maintaining social licences are CAPEX components in large water infrastructure delivery. Anecdotal data from my team, where more than 40 engagement professionals support over 400 projects annually, indicated that the expenditure for community engagement per project is generally below 5% of project TOTEX. For mega infrastructure projects over $1B, anecdotal data showed that community engagement, on average, costs between 1% and 3% of the total CAPEX, and is usually on the lower end, rarely above 3%. Compared with transmission projects, it is understandable that unique social licence cost items may be required, such as landholder compensations and legal costs, driving a higher cost. The Institute for Infrastructure in Society and its industry partners are leading a research project to understand whether more capital spending for community engagement in the planning stage will reduce stakeholder pressure in project delivery. It will be a genuine opportunity for the AER to work with the industry to develop a benchmarking and reporting mechanism to help measure the social licence expenditure for transmission projects. The data will help improve social license activity planning and guide TNSPs in making prudent and responsible future investment decisions. Better data collection and reporting will assist TNSPs with quantifying (justifying) the costs for externalities that are part of delivering the transmission project. Ultimately, transmission project proponents need certainty to recover the capital spending to mitigate the negative social impacts associated with the project. The sector will be able to do a better job quantifying social licence costs if robust data and empirical examples are available for cost baseline and comparison.

Focusing on community benefit mechanism

As described in the Directions Paper, social licence is a broad term referring to the level of acceptance of an organisation and its activities by communities. Transmission lines traverse large amounts of geographic land. The infrastructure impacts communities, the land and water in various positive and negative ways. For this reason, TNSPs are responsible for closely engaging with and responding to the needs of communities, First Nations and all other reasonably impacted stakeholders. I commend the AER for its ongoing advocacy for meaningful engagement with communities affected by monopoly energy businesses. The outcome of effective engagement also facilitates an evidence-based, cost-efficient regulatory proposal.

Communities impacted by transmission projects have repeatedly highlighted their vital interests in the community benefit scheme and jurisdictional benefit-sharing framework. The concerns about the social benefits the project proponent will bring to the region, how and when funds are distributed, and who will govern the scheme continue to be prominent throughout various engagement processes. When a TNSP builds the social licence with its local community, there is an opportunity to align its engagement activities to determine the local interests in community investment and inform the community on what the costs of providing community benefits are likely to be. When considering cost recovery, the AER can also measure a transmission proponent against the outcome of identifying tangible, customer-endorsed community benefit opportunities and how these opportunities complement the jurisdictional strategic payment scheme. The engagement outcome can be demonstrated by qualitative and quantitative measures, such as a project-based community

benefit scheme report or a register of community benefit initiatives endorsed by a community-governed consultative committee. Ultimately, the principles of being prudent and efficient still apply in assessing social licence cost recovery. The engagement plan and activities proposed by a TNSP should consistently demonstrate how they will contribute to ensuring financial certainty, reducing project delay, and gaining broad stakeholder buy-in.

Building transmission with community trust

An evidence-based regulatory proposal is the backbone of transmission infrastructure investments. Meaningful community engagement contributes to the legitimacy of the regulatory proposal, enhances project assurance, and builds the social licence required to ensure the timely delivery of major transmission and renewable projects.

As articulated throughout this submission, TNSPs and other renewable project proponents already carry out community engagement and social licence building activities, from needs analysis to planning approval to project construction. While TNSPs have varying maturity levels in obtaining social licences with their communities, there is overwhelming support to improve best practice engagement to build community trust. A trusting relationship between transmission businesses and their communities will reduce the financial uncertainty surrounding a project due to community and stakeholder opposition. More transparent cost recovery data, a joint-up industry approach to engagement, and better benchmarking will also provide the clarity transmission businesses need to make prudent investment decisions.

I thank the AER for the opportunity to provide feedback on the Directions Paper on social licence for electricity transmission projects. If you have any queries or want further clarification concerning this submission, please do not hesitate to contact me on [redacted] or via [redacted].

Yours sincerely,

Kee Li
Community engagement practitioner

Appendix – about the author

Kee Li is a leader in community engagement with 18 years of experience in both the public and private sectors across energy, utilities, transport and government, building social licence, community trust and a more inclusive decision-making process.

Kee currently heads the regional engagement team at Sydney Water which supports community and stakeholder engagement for over 400 infrastructure projects per annum, from planning to design, delivery and facility maintenance. The team includes more than 40 engagement practitioners and is the first in Australia and New Zealand to adopt the NEC4 contracting framework for a collaborative enterprise engagement model.

Kee is a member of the International Association of Public Participation (IAP2). He holds a Bachelor of Social Science and a Master of International Law and Public Policy from Macquarie University, specialising in energy, climate and natural resources policy.