



26th June 2023

Ms Anthea Harris
CEO
Australian Energy Regulator
Level 17 Casselden, 2 Lonsdale Street,
Melbourne VIC 300
Via email: aerinqury@ aer.gov.au, anthea.harris@ aer.gov.au

Cc Mr Daniel Westerman, CEO, AEMO, daniel.westerman@ aemo.com.au
AEMO Victoria Planning – VNI West, VNIWestRITT@ aemo.com.au
Mr Brett Redman, CEO, Transgrid, brett.redman@ transgrid.com.au
Transgrid – VNI West, VNIW@ transgrid.com.au

Dear Ms Harris,

Re: Compliance issues – VNI West Actionable ISP Project RIT-T and 2022 ISP

On 27 May 2023, AEMO Victoria Planning (AVP) and Transgrid published the Project Assessment Conclusions Report (PACR) for the Regulatory Investment Test for Transmission (RIT-T) process for the Victoria to New South Wales Interconnector West (VNI West).

We are writing to formally lodge a number of compliance issues with the AER regarding the VNI West RIT-T for an actionable ISP project and also compliance issues with the VNI West RIT-T's alignment with the 2022 Integrated Systems Plan (ISP).

We respectfully request that AER take compliance action now regarding the following:

1. The VNI West RIT-T and PACR does not conform to NER 5.15A.1(c).
 - *“(c) The purpose of the regulatory investment test for transmission in respect of its application to both types of projects is to identify the credible option that maximises the present value of net economic benefit to all those who produce, consume and transport electricity in the market (the preferred option)...”*
 - The VNI West PACR selects a preferred Option 5A that has lower net market benefits (\$1,371m present value, weighted) than the runner up option in the PACR Option 5 (\$1,374m) – Option 5A does not maximise the present value of net economic benefits.

2. The VNI West RIT-T and PACR does not comply with NER 5.15.2 and 5.15A.3(b)(7)(iii)
 - *“5.15.2(b) Subject to paragraph (b1), in applying the regulatory investment test for transmission, the RIT-T proponent must consider, in relation to a RIT-T project other than*

those described in clauses 5.16.3(a)(1)-(8) or 5.16A.3(a), all options that could reasonably be classified as credible options...

- 5.15.2(b1) Paragraph (b) only applies to the application of the regulatory investment test for transmission to a RIT-T project that is an actionable ISP project where a RIT-T proponent is considering new credible options under clause 5.15A.3(b)(7)(iii)(C).
 - 5.15A.3(b) The regulatory investment test for transmission must:
 - (7) specify that the RIT-T proponent must:
 - (iii) consider the following credible options:
 - (A) the ISP candidate option or ISP candidate options, which may include refinements of an ISP candidate option;
 - ...(C) any new credible options that were not previously considered in the Integrated System Plan that meet the identified need (including any non-network options submitted to AEMO in accordance with clause 5.22.14(c)(1));”
 - The VNI West PACR is non-compliant as it does not include assessment on the ISP candidate option in the ISP nor all the credible options identified and assessed post the VNI West PADR that were not considered in the ISP.
3. The VNI West PACR does not conform to NER 5.16A.4(j) regarding VNI West PADR credible options:
- “(j) The project assessment conclusions report must set out:
 - (1) the matters detailed in the project assessment draft report as required under paragraph (d); and
 - (2) a summary of, and the RIT-T proponent's response to, submissions received, if any, from interested parties sought under paragraph (f).”
 - 5.16A4(4) sets out all the details that must be included in preparing a PADR, including credible options, the proposed preferred option, any variation to ISP parameters, etc .
 - The VNI West PACR only assesses 2 options (5 and 5A) that are categorically different options to those assessed in the VNI West Project Assessment Draft Report (PADR). It is non-compliant as it does not include assessment of the VNI West PADR credible options as required.
4. The VNI West PACR does not conform to NER 5.16A.4(i) regarding other credible options assessed between PADR and PACR stages:
- “(i) As soon as practicable after the end of the consultation period on the project assessment draft report referred to in paragraph (g), the RIT-T proponent must, having regard to the submissions received, if any, under paragraph (f) and the matters discussed at any meetings held, if any, under paragraph (h), prepare and make available to all Registered Participants, AEMO and interested parties and publish a report (the project assessment conclusions report).”
 - During the VNI West PADR consultation period, in February 2023 AVP and Transgrid issued a VNI West Consultation Report – Options Assessment (Consultation Report), in response to feedback to the July 2022 VNI West PADR. The Consultation Report assessed 7 options (1, 1A, 2, 3, 3A, 4, 5). Only one of these options (Option 1) reflected an option

in the VNI West PADR - the preferred option therein which was also the only ISP candidate option in the optimal development path (ODP) in the 2022 ISP. All other options involve significant technical change to the scope of VNI West.

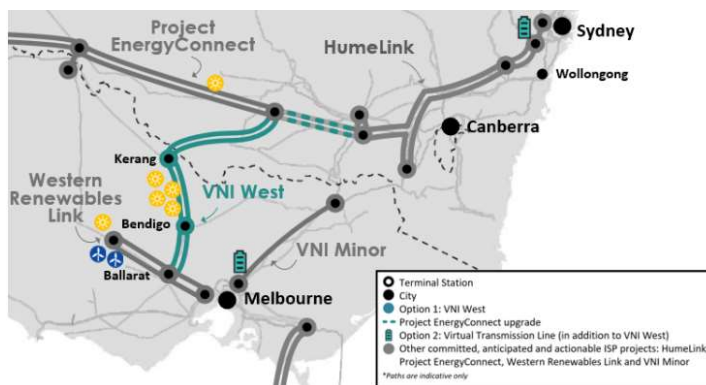
- Significantly the highest net benefits option (at present value) in the Consultation Report is Option 3A (\$1,408m), which is higher than the preferred option 5 in the same report (\$1,388m) and also higher than the preferred option 5A in the VNI West PACR (\$1,371m) – note Option 5 in the VNI West PACR has more net benefits than Option 5A at \$1,374m. Excluding Option 3A and other options from the VNI West PACR also appears to contradict the purpose of the RIT-T 5.15A.1(c) as specified in (1) above.
 - The May 2023 VNI West PACR only assesses one of these 7 options in the Consultation Report (Option 5) against a new credible Option 5A not part of the VNI West PADR nor the Consultation Report.
 - The VNI West PACR is non-compliant as it does not include assessment of the credible options in the Consultation Report as required by the NER 5.16A.4.
5. The VNI West PACR did not comply with the consultation requirements as set out in 5.16A.4(f), (g) and (h) and the Cost Benefit Analysis (CBA) Guidelines s4.5:
- *“(f) The RIT-T proponent must seek submissions from Registered Participants, AEMO and interested parties on the proposed preferred option presented, and the issues addressed, in the project assessment draft report.*
 - *“(g) The period for consultation referred to in paragraph (f) must be not less than 6 weeks from the date that AEMO publishes the report on its website.*
 - *“(h) Within 4 weeks after the end of the consultation period required under paragraph (g), at the request of an interested party, a Registered Participant or AEMO (each being a relevant party for the purposes of this paragraph), the RIT-T proponent must meet with the relevant party if a meeting is requested by two or more relevant parties and may meet with a relevant party if after having considered all submissions, the RIT-T proponent, acting reasonably, considers that the meeting is necessary.”*
 - In contradiction to 5.16A.4(f) – (h), AEMO did not consult in any way with any party, aside from the Victorian Government, regarding the proposed preferred option that was concluded in the VNI West PACR (Option 5A), it simply appeared in the VNI West PACR as a completely new option.
6. The VNI West PACR preferred option is not aligned with the latest ISP and does not conform to NER 5.22.15(b) and (c) regarding ISP updates:
- *“(b) If, after the publication of the most recent Integrated System Plan:
(1) new information becomes available to AEMO relating to the matters set out in clause 5.22.6 and, in AEMO's reasonable opinion, that new information, may materially change the outcome of the regulatory investment for transmission for an actionable ISP project that has either commenced or is due to commence prior the publication of the next Integrated System Plan; or
(2) a RIT-T proponent requests AEMO to assess an actionable ISP project or stage of an actionable ISP project under clause 5.16A.5(b),*

then AEMO must as soon as practicable, assess the impact of the new information on the optimal development path under that Integrated System Plan.

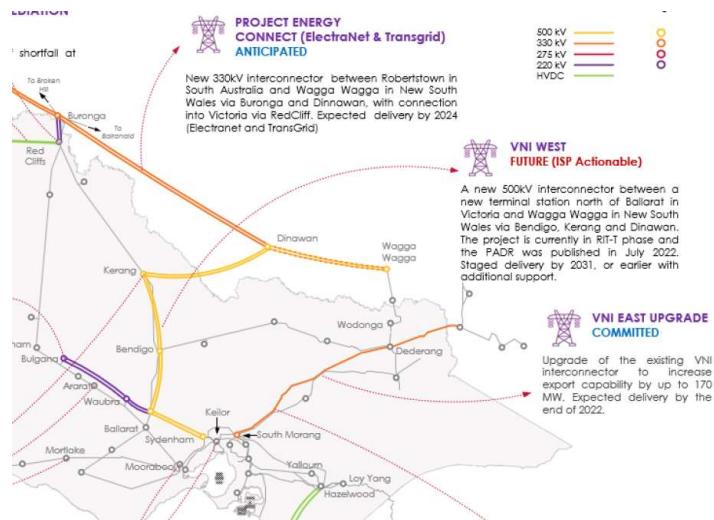
- (c) If AEMO is required to publish an ISP update under paragraph (a), or AEMO's assessment under paragraph (b) determines that there is a material change to the need for, or the characteristics of a current actionable ISP project, AEMO must consult on the new information and the impact on the optimal development path under the Integrated System Plan, in accordance with the consultation requirements set out in the Forecasting Best Practice Guidelines.”
- At the time of the VNI West PACR, the latest ISP (including any ISP updates) issued by AEMO was the 2022 ISP dated June 2022. Within this ISP, Appendix 5 Network Investments, section A5.4.5 is the technical description of the “ISP candidate option” for VNI West, the only ISP candidate option for VNI West in the ISP’s Optimal Development Path (ODP). Image below is from 2022 ISP Appendix 5, section A5.4.5:



- Further detailed as a specification in section A5.4.5, this extracted image shows that the ODP in the ISP is to build VNI West from a new terminal station north of Ballarat (built as part of the Western Renewables Link (WRL)), to a new terminal station near Bendigo to a new terminal station near Kerang. The accompanying specification description provides clear detail for this path in Victoria from north of Ballarat to Bendigo to Kerang. The expected cost is recorded at \$2,942m.
- At the time of the VNI West PADR (July 2022), just one month after the 2022 ISP, the cost of option 1, which is aligned to the ODP in the 2022 ISP, has risen to \$3,256m – a material change (increase) in cost of \$314m or 11%. At the time of this material change in cost, it would seem an ISP update was required by NER 5.22.15 but was not made. This is a non-compliance. For the route of option 1 see image below from the PADR:

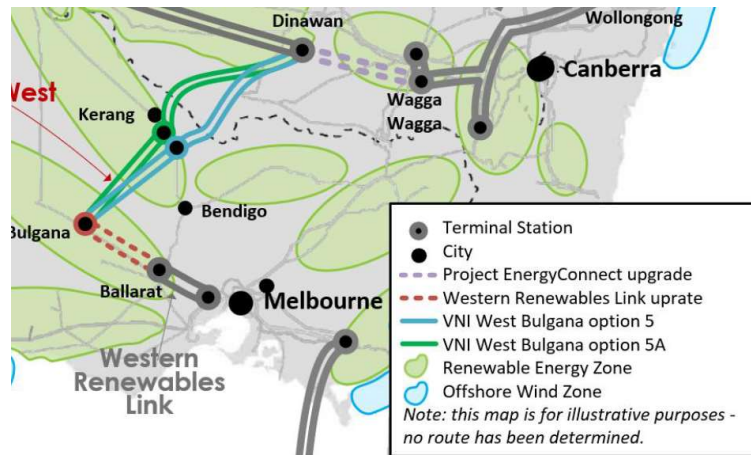


- In October 2022, under its declared network functions, AEMO issued its Victorian Annual Planning Report (for transmission). Therein it reaffirmed in Figure 30 the preferred option from the VNI West PADR as per the 2022 ISP:



- In December 2022, AEMO issued VNI Project Update No. 5 wherein it stated “...AVP and Transgrid are embarking on an investigation of alternative VNI West options, still running via a terminal station near Kerang, but with connection to WRL west of the currently proposed terminal station”. This was the first public flag made by AEMO that a material change to VNI West was being considered.
- As discussed in (4) above, in February 2023 AEMO issued its VNI West Consultation Report that considered 7 options, only one of which was aligned with the ISP and VNI West PADR.
- Option 5A in the VNI West PACR records significant material changes to the ODP’s only ISP candidate option in the 2022 ISP:
 - Despite one less terminal station than the ODP, significantly more cost (now \$3,499m), a \$557m or 19% increase versus the ISP.
 - Significantly different route change, the transmission line is connecting to the WRL ~110km to the west.
 - Significant Victorian interconnection changes, there is no longer a terminal station north of Ballarat, nor a terminal station nearby Bendigo, and so 2 of Victoria’s larger load centres are no longer serviced by the WRL or VNI West as had always been envisaged by the 2018, 2020 and 2022 ISPs.
 - VNI West PACR notes at Section 3.2 that congestion issues with Bendigo will remain, they are not resolved by Option 5A.
 - In parallel to publishing the VNI West PACR, AEMO published in May 2023 its Draft Transmission Expansion Options Report (draft report for consultation for the 2024 ISP) wherein it proposes at s5.6.6 options to upgrade the transmission system around Bendigo at a cost between \$655m and \$1,061m.
 - The switch from Option 1 to Option 5A poses a real risk of additional and unnecessary costs for consumers.

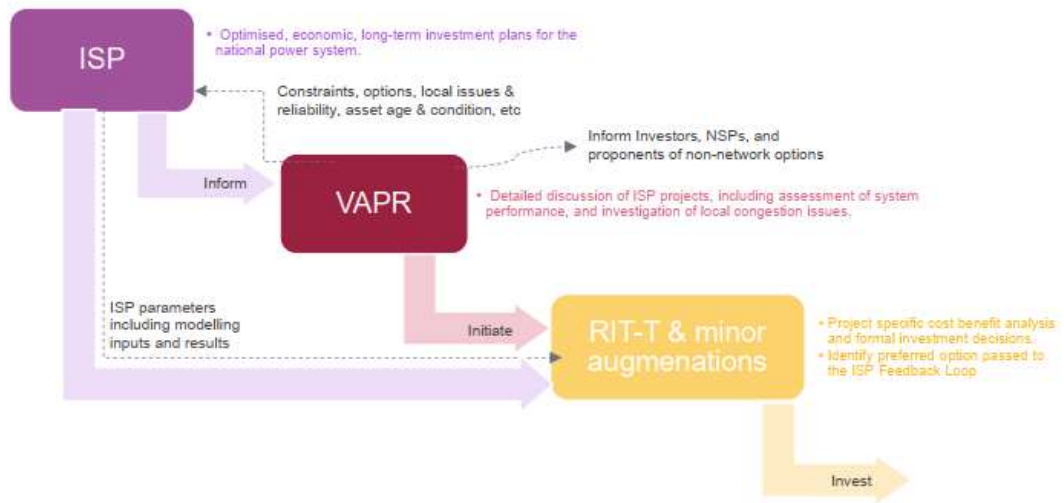
iv. In support of (i)-(iii) see this image from the VNI West PACR.



- Under 5.22.15 AEMO is required, when certain material changes occur, to undertake a consultation process in order to determine if the ISP (including ODP) should be updated or remain as is. The VNI West PACR is not aligned in many material ways with the ISP, and it would appear that the VNI West PACR should not have been published until either the ISP was updated through the required process to reflect option 5A, or the VNI West PACR is prepared in alignment to the ODP, i.e. the preferred option in the VNI West PACR and Option 1 in the Consultation Report. Furthermore, the 11% increase in cost between the 2022 ISP and VNI West PACR ought to have required an ISP Update in mid 2022 in accordance with 5.22.15.
7. Further to (6) above, AEMO has not complied with its obligations under NER 5.14.4(a) and (b):
- *“(a) Subject to paragraph (d), Transmission Network Service Providers and AEMO (the joint planning parties) must take reasonable steps to cooperate and consult with each other to enable preparation of a draft or final Integrated System Plan or an ISP update, including each joint planning party (as applicable):*
 - (1) providing, and consulting on, a Transmission Annual Planning Report prior to its publication;*
 - (2) providing, in accordance with the ISP timetable, the latest available information in relation to the development of a Transmission Annual Planning Report required for the purpose of preparing a draft or final Integrated System Plan or ISP update;*
 - (3) providing information in relation to non-network options for the purpose of preparing a draft or final Integrated System Plan or ISP update;*
 - (4) conducting a preliminary review of non-network options submitted to AEMO following a draft Integrated System Plan;*
 - (5) sharing a draft optimal development path to be included in the draft and final Integrated System Plan or an ISP update before its publication;*
 - (6) considering whether a credible option in a draft optimal development path is reliability corrective action; and*
 - (7) sharing information reasonably necessary to prepare a draft or final Integrated System Plan or an ISP update.*

- *(b) As soon as practicable after a Transmission Network Service Provider becomes aware of a material change to information provided under paragraph (a), that information must be updated.”*
 - AEMO as TNSP was aware of likely material changes to VNI West that required that the ISP be updated (Jul 2022 cost change in the PADR, Dec 2022 route change) - this rule was not followed at all, let alone ‘as soon as practical’.
8. Further to (6) above, the VNI West PACR as it stands means that AEMO is unable to satisfy the trigger event set out in NER 5.16A.5, and therefore AEMO is unable to make a contingent project application (CPA) under NER 6A.8 which provides the NER’s mechanism to recover costs for actionable ISP project early works (see also (9) below):
- AEMO cannot meet 5.16A.5(a) as the VNI West PACR does not meet the requirements of 5.16A.4 (as per (3), (4) and (5) above).
 - As per (6) above, preferred option 5A does not align to the ODP, and so 5.16A.5(b) cannot be satisfied.
 - This means that AEMO is not able to obtain funding for VNI West early works via the normal CPA process as per NER clause 6A.8, in which case if funding is obtained elsewhere and costs allocated to consumers eventually as they must, this cost allocation may not be compliant with the NER including the National Electricity Objective (NEO).
9. The VNI West PACR states at several sections “The regulatory arrangements in Victoria do not require AVP to seek a ‘feedback loop’ confirmation from AEMO” regarding the alignment between a RIT-T and the latest ISP. This statement is not compliant with NER 5.16A.5, 5.22.15 and the applicable CBA Guidelines.
- AVP is specified as the joint ‘RIT-T Proponent’ of the VNI West RIT-T.
 - At NER 5.10.2, a “RIT-T proponent means the *Network Service Provider* applying the regulatory investment test for transmission to a RIT-T project to address an identified need.”
 - Under s32 the National Electricity Victoria Act (NEVA), AEMO, that is Australian Energy Market Operator Ltd, is given declared network functions under Subdivision 3 of Division 2 of Part 5 of the National Electricity (Victoria) Law, as per Schedule 1 of the National Electricity South Australia Act (NEL). Consequently, AEMO is the transmission Network Service Provider (NSP) for Victoria.
 - AVP is an internal department of AEMO, within the one legal entity that is the transmission NSP for Victoria.
 - In its 2022 Victorian Annual Planning Report (VAPR), AEMO graphically illustrates the policy and regulatory context within which it operates, including the ISP feedback loop at the end. This graphic is on the following page:

Figure 5 Relationship between the ISP, VAPR, and RIT-T in the national planning framework



- The feedback loop is defined in detail in the CBA Guidelines s3.5.3 with specific reference to NER 5.16A.5 and 5.22.15.
- Nothing in the NER nor CBA Guidelines exempts AVP, that is AEMO Ltd, from not having to seek ‘feedback loop’ confirmation – this statement in the VNI West PACR appears non-factual. Failure to undertake this ‘feedback loop’ task leaves the VNI West PACR with a preferred option that is not aligned to the ODP in the ISP.

If you have any queries, please do not hesitate to contact me on vj1009@hotmail.com.

Yours faithfully,

Vicki Johnson

Vicki Johnson

Vice-Chair

On behalf of Moorabool and Central Highlands Power Alliance Inc.