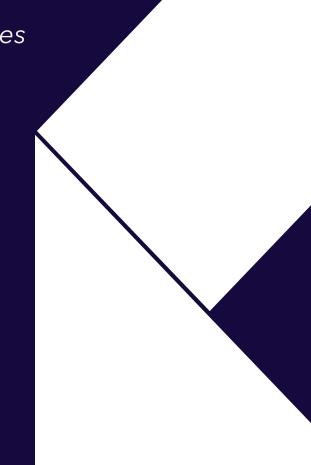# AER Broader Stakeholder Forum

Topline Report

Prepared for the Australian Energy Regulator to support the 2024 review of the cost benefit analysis and regulatory investment test guidelines

Version 2

2 July 2024

Introduction

Meeting details

- Held Monday 3 June, online, 4-6pm.

- Approximately 50 people attended the session and included a mix of local council staff and representatives, and members from community and environmental advocacy groups.

- The forum was opened and closed by Jim Cox, Deputy Chair AER and discussion topics were introduced by Stephanie Jolly, Executive General Manager Consumers, Policy and Markets AER and Owen McIntyre, Director Transmission Frameworks AER.

- The forum was facilitated by Sophie Travers, Partner SEC Newgate and Isabel Thompson, Senior Project Manager SEC Newgate.

Purpose

The Australian Energy Regulator (AER) has scheduled consultative forums to discuss proposed changes to a set of guidelines used by proponents of new electricity transmission projects; the 2024 Review of the cost benefit analysis and regulatory investment test guidelines.

This report summarises feedback given in the AER's forum dedicated to the broader stakeholders and communities relevant to transmission projects. This focused on the social licence amendments to the guidelines and asked the group to consider how social licence issues and engagement approaches can be better integrated in the guidelines, so that communities can be assured businesses will operate with integrity and good intentions.

Actions

None noted.

⭐ Main takeaways ⭐

- To most, **social licence is linked to general awareness and acceptance of a project** within their community. Respondents believed a project has social licence when community members are taken on a journey from the earliest stages of a project and have some say in the project's final design.

- Who should be involved in engagement is contextual, and proponents should hold early conversations within communities to ask them who they think should be involved. **The AEMC's list of stakeholders (as per NER clause 5.15.5(b)) is a good start but does not cover everyone who should be engaged.**

- **Participants felt that the guidelines should be specific enough to remove ambiguity** for transmission businesses and ensure affected communities are meaningfully engaged. Community members were more likely than industry to favour specific requirements over principles-based guidelines but could see value in both.

- While participants **believed community engagement is important, they found it difficult to determine who should pay for it**. They did, however, feel strongly that **the outcomes of poor engagement (e.g. delays or increased costs) should not be paid for by customers**. The majority agreed that engagement was best started early.

- The questions of **whether a project can be credible without social licence received mixed responses**. For some, social licence is directly linked to a project's credibility. For others, it was about forming good relationships and something to be built over time.

Discussion summary

Defining social licence

What is changing in the guidelines?

Ensuring transmission projects build and maintain social licence is becoming a focus in the national planning framework. The AER's guidelines review forms one part of an industry-wide shift towards placing greater important on social licence and community engagement.

What we sought views on

To start the forum discussion, we delved into how the group sees and defines social licence – what does it look like to them in their communities? Within this discussion, we wanted to assess whether their views aligned with how the AER formally defines social licence.

Summary of thoughts shared by the group

Social licence is acceptance, not support

- Most of the group felt that social licence does not mean a community is in full support of a project. Rather, social licence reflects a community's willingness to accept the long-term impacts of a project and work together with the proponent to mitigate these and ensure there are benefits to the community.

- Many also thought social licence is something that builds over time – it is rooted in developing trust and relationships, so requires long-term investment. For many, this manifested in a view that engagement should start early and continue throughout the various stages of a project. Communities should be taken on the journey and consulted regularly.

The AER's definition can seem vague and impersonal

- While some felt the definition is satisfactory and concise, others thought it lacked the detail needed to be meaningful. A suggestion given was to define who the 'community' was.

- Another comment stated that the definition felt impersonal in the sense that it doesn't read like the best interests of a community is the core intention. Incorporating more positive language and an ambition statement was encouraged - what outcome is social licence on these projects aiming to achieve?

? Questions asked

- What does social licence mean to you?

- The AER defines social licence as "the level of acceptance of an organisation and its activities by a community." What do you think about this definition? Is there anything you would add or change? If so, can you explain why?

"As a definition I think it's fine, however I think that it needs to be tied up with an actual ambition." (Discussion comment)

Social licence is *"community acceptance on the need for the project and a sense that ideas from the community have been incorporated in the final design."* (Slido response)

"Social licence needs to be the very start of the process, at the moment there is almost no requirement to even consult with community on some of the big projects in our region." (Discussion comment)

"Acceptance is more leaning towards tolerating. Support demands a higher bar." (Discussion comment)

Participant comments/responses

Discussion summary
Engagement

What is changing in the guidelines?

The Australian Energy Market Commission (AEMC) recently updated the national electricity rules to more clearly explain who energy businesses should engage with and how. Some of the AER's guidelines need to be updated to reflect these changes:

- Transmission businesses conducting ISP projects are required to undertake "reasonable endeavours to address all categories of stakeholders in a tailored and effective manner".

- Stakeholders who are reasonably likely to be affected by the development of the project should be involved in the consultation. Stakeholders should include local landowners, local council, local community members, local environmental groups and traditional owners.

What we sought views on

We wanted to outline and then test the new industry expectations on engagement to see if the forum felt these were right or if elements were missing. As the ultimate recipients of the engagement by transmission businesses, it was important to understand if their minimum standards were being met by the guidelines.

Summary of thoughts shared by the group

The AEMC's list of stakeholders is a good start, but does not include everyone

- Participants took a more expansive view of who should be consulted. They agreed the AEMC's list covered most stakeholders, but took the opportunity to raise more specific examples, which the AER could include in their guidelines to support the rules.

- Their suggestions included young people, environmental experts, local businesses and associations, community organisations, housing and accommodation providers, and emergency service providers.

'Local' is project and community specific – proponents should take direction from community leaders on who should be consulted

- There is no one size fits all definition of "local".

- Participants could not determine if "local" had a geographic definition.

- The group's criteria to identify "local" was broader and included thinking about who is physically, financially or visually affected by a project.

- One participant noted that early conversations with communities, on the ground, would tell the proponent who should be involved in the consultation. Smaller, regional communities would have respected community leaders who could easily point proponents in the right direction.

Reasonable endeavours, although difficult to define, means to most that communities are given varied and early opportunities to provide input into the process

- Understanding the negotiables and non-negotiables of a project is important to then determine what would count as reasonable endeavours for that project.

? Questions asked

1. Is there anyone missing?

2. How would you define "local"?

3. Thinking about how you might like to be engaged, how you would you define "reasonable endeavours"?

4. What does "tailored communication" mean to you? Can you give an example of what you think this might look like?

5. When is the right time to engage communities on a transmission project, in your view?

6. Would you prefer we draft something for businesses that is principles-based to show evidence against in reporting OR specific or minimum requirements of activities?

- The group largely felt that "reasonable" meant that every issue raised by a community is addressed so that people feel heard from the earliest possible opportunity, recognising this does not mean that everyone gets what they want.
- Participants believed engagement should involve in-person activities within affected communities, and that the types of activities offered are varied.

The group felt "tailored communication" means communication that is meaningful, relevant, and easy to understand

- All communication materials should be relevant to specific stakeholders and groups; covering what they need to hear and accounting for the different technological literacy of said groups.
- Communications should also always aim to build relationships and respond to issues or questions meaningfully.
- A personal touch is needed, a one-size-fits all approach does not work.

Engagement should start as early as possible to eliminate all elements of surprise and allow enough time to build trust within a community

- The majority of the group (11 out of 19 respondents on Slido) felt it was best to engage as early as possible, before different options have been identified.
- For those that voted for a later time in the project process, their reasoning was to avoid upsetting or worrying communities before it is absolutely necessary. This largely related to the concept of providing multiple routes, which may distress some communities or individuals, when that route is unlikely to be viable.

Specific requirements for transmission business to follow would be more likely to translate to better outcomes for communities

- The majority (10 out of 16 respondents on Slido) preferred for the guidelines to be written as specific requirements. They felt that if the guidelines were broader, transmission businesses would be more likely to do the bare minimum or to misinterpret what is expected of them.
- Those that opted for a principles-based document, thought that approach would lead to more meaningful and tailored engagement, where specific requirements may feel more like a 'box ticking' exercise.

"The problem with this is that "reasonable endeavours" is not measurable and this leads to claims of those promoting the projects have done enough and the opponents saying there is never enough." (Slido response)

"Having spent a long time in country NSW the respected leaders are self-identified and well known to community members themselves. Find out directly from people within community." (Discussion comment)

"If you need to put in transmission lines, it would be good to include anybody who is locally known for being aware of local flora and fauna and have an interest. Need to ensure they have no vested or conflicted interests. A dispassionate advocate providing alternative routes in the local area." (Discussion comment)

"If you don't consult super early, the rumour mill gets started, and you end up with poor social licence to start with. We do talk to each other!" (Discussion comment)

"Set minimum standards you will get minimum responses. Engagement plan should form part of a broader approval process." (Discussion comment)

Participant comments/responses

Discussion summary

Considering costs of building social licence

What is changing in the guidelines?

The AEMC has recommended that the AER provide additional guidance on how the costs associated with building and maintaining social licence for major transmission projects should be considered and assessed.

What we sought views on

We wanted to understand from the group what reasonable expenditure on social licence might look like, given that these costs might be included in customer bills.

Addressing social licence issues is important – it can build understanding and avoid costly delays – but can take time and requires investment. The challenge is to ensure the forecasted level of investment is appropriate. We asked the group to try to articulate to us what level of investment feels appropriate and what doesn't.

It is worth noting that many found it hard to understand what would make up the cost of social licence, i.e. were we discussing the cost of the engagement itself, or the cost of community promises like weed removal, building new roads or improving local infrastructure like sporting facilities.

Summary of thoughts shared by the group

The cost burden should not be on customers
* It was strongly felt that customers and communities should not pay for the cost of social licence, especially in cases to repair social licence as a result of poor engagement early in the project life.

* Transparency and an independent review of costs were mentioned. One participant suggested there may be a way to incentivise businesses to carry this cost (i.e. through tax cuts).

* Some noted that poor engagement could result in other costs to consumers e.g. project delays or lengthy and costly legal challenges.

Social licence investment should result in clear and lasting benefits to the community
* When discussing investments in community benefits, respondents wanted these to be practical but go beyond things that would simply "make it easier for the project" like new roads. Examples given included undertaking weed control/elimination, installing microgrids, and providing donations to local community groups or charities.

A need for high financial investment in social licence may mean the project is not right
* Some suggested that a need to invest large sums in social licence building activities may indicate that a project is not supported enough and is therefore not worth pursuing. In this context, social licence spending was seen as an "inducement" for support.

* For some, social licence was less about material investment and more about building community understanding of a project's benefits and purpose. One comment noted that social licence would be more of an investment in engagement resources – people on the ground talking with the community. High expenditure therefore seemed unnecessary to some.

? Question asked

* How should the AER judge when expenditure on social licence is reasonable and when it isn't?

Early investment is cheaper than the cost of repairing social licence in later stages

* A baseline investment should be established, to give transmission businesses guidance but to also prevent social licence activities being done so quickly and cheaply that they are ineffective and not meaningful.

"Are we the consumers going to pay for their inability to start the project due to such a poor job of establishing social licence?"
(Discussion comment)

"Payments to individual landholders should be benchmarked against some kind of national average."
(Discussion comment)

"As long as there is a transparent process in identifying expenditure- it can be easy to try to "buy" off groups or individuals who are particularly noisy. But from a cost benefit view, the social licence cost of different options is an indication of how good/bad an option is."
(Slido response)

Participant comments/responses

"Spending really has no real impact on gaining social licence. If it does it's more an inducement. Social licence should mean tailoring a project so that most of the impacted community sees the benefits over the disadvantages."
(Slido response)

Discussion summary

Identifying a credible option

What is changing in the guidelines?

The expectation that a proponent will now establish how social licence issues have been considered in their assessment of whether an option is technically and commercially feasible, or if it can be delivered in sufficient time to meet the identified need i.e. whether an option is credible or not.

What we sought views on

We wanted to get a sense from the group how they thought social licence may influence whether or not an option is credible and what criteria they were using to determine this.

Summary of thoughts shared by the group

Ways to measure social licence varied but it ultimately comes down to achieving community understanding of a project

- It was felt by many in the group that a key indicator of social licence is if a community knows about a project, understands why it's needed, and is aware of the benefits.
- Many suggested conducting community-wide surveys to test if this understanding is there. Other suggestions included monitoring local social media, and meeting with local council. One participant noted the important role of a social impact assessment in the early stage of assessing transmission options.

For some, a project cannot be credible without social licence

- For some, social licence is directly linked to a project's credibility. If a project does not have acceptance within a community, then it should not be allowed to proceed. Some went so far as to suggest a project without community approval would be undemocratic.

For others, a project can be credible, subject to future social licence

- Social licence is context and time dependent, so should be given weighting at the time of a project's development, but not be used to determine its overall credibility.
- For these respondents, a project should be viewed as credible if it is technically the best solution or critically important infrastructure. Social licence should therefore be a project commitment, delivered over time. People may need time to understand and then accept an idea. They also noted, however, that social licence can be lost quickly, or at any point of a project's life.

> **?** **Questions asked**
>
> - How can you measure social licence? How do you know if a project has it or not?
>
> - Can a project be considered "credible" if it doesn't have social licence? Is it acceptable for social licence to be built over time?

> *"It (social licence) can be built and lost over time."* (Slido response)

> *"If a project doesn't have social license, it shouldn't be built."* (Slido response)

> *"If the first time a community is hearing of a project when the team rolls in, definitely no social licence."* (Slido response)

> *"The scale at which social licence needs to be attained seems pretty pertinent to this question. The project may have local support but opposition at the national level."* (Discussion comment)

Participant comments/responses

SECNewgate

Engage