

# **AER Expert Forum**

# **Topline Report**

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

Version 2

3 June 2024

# Introduction

## Meeting details

- Held Monday 20 May, online, 3:30-5:30pm.
- Approximately 50 people attended the session and included a mix of consumer advocates, peak bodies and transmission businesses.
- The forum was opened and closed by Jim Cox, Deputy Chair AER and discussion topics were introduced by Owen McIntyre, Director Transmission Frameworks AER.
- The forum was facilitated by Sue Vercoe, Managing Partner 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.

A forum for industry experts was held on 20 May 2024. This focused on the social licence amendments to the guidelines and asked the group to consider how:

- best to write the new guidelines so that they are clear and reasonable for network businesses to implement.
- social licence issues and engagement approaches can be better integrated and clarified in the guidelines.

## Actions

1. Provide participants the presentation slides prior to the broader stakeholder forum.

### Main takeaways

- Social licence is seen as the outcome of a project, not a process or input measure at its commencement.
- The value of social licence is acknowledged, but it is seen as something that should build over time with communities. Transmission companies may not have built sufficient social licence at the time of the regulatory investment test, but there would be an expectation of engaging with communities to understand what will make the option credible. It is therefore difficult for an option to be ruled out as not credible, especially if there is evidence of and plan to achieve future project acceptance.
- Social licence is a result of more than engagement and costs, it is the result of a process and the way the proponent approaches the project. More guidance is needed on both the approach to social licence and how costs should be accounted for.
- It was also felt that social licence may mean different things to different stakeholders, further complicating the process of defining and measuring it.
- Transmission businesses value flexibility in the guidelines to adapt them to different projects, however desire earlier interaction with the AER to check their approach is aligned with expectations and do not spend undue time and costs. There was particular keenness for greater clarity on the AER's expectations of "reasonable endeavours".

# Discussion summary

## Measuring social licence

### What we sought views on

To start the discussion, before delving into the consultation paper topics, the group was asked to comment on the AER's definition of social licence and consider:

- If they agreed with the definition, and
- How they would or do measure social licence - how do they measure acceptability within a community?

### Summary of thoughts shared by the group

While participants appreciated that social licence was indeed the focus of this section of the consultation paper, comments suggested they were unsure whether social licence could in fact be measured in advance of project approval and whether it was perhaps a lag rather than a lead indicator. Instead, they suggested that consideration be given to what some called 'social performance' indicators, but which could also be called 'quality of engagement' indicators.

- Social licence for transmission projects refers to a community's relationship with the transmission business and the infrastructure - for example, a stakeholder stated that on such projects, communities are asked to "become the deliverers and producers of this energy infrastructure for the rest of their time".
- There is a closeness but a distinction between social licence and social performance. It was felt that social licence is more of a lag indicator and refers more to the acceptance of the outcome of a project, and social performance is an ongoing process that can indicate the level of acceptance towards the organisation delivering a project. Businesses can consider their social performance in past projects when planning a process to gain social licence in a future project.
- An extension of the thought above was to say that enhancing social performance is how social licence is achieved. Businesses likely have frameworks in place to enhance social licence, community engagement being one component of this. It was felt that social licence is the positive outcome/output of strong social performance.
- The social licence outcome of a project would be perceived and defined differently between different stakeholders. The definition of communities should also be examined by the AER in the guidelines review. Broad categories have been identified but greater detail is needed.



### Questions asked

- What would be a good way to measure social licence?
- How does your organisation measure social licence?

*"Social licence is a combination of engagement, investment, procurement, and jobs creation"*

*Social licence is summed up by asking if the "people involved come out of the process feeling that things were done with them or to them"*

# 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

How transmission businesses might consider social licence in determining credible options and, in extreme cases, how they may justify an option as not credible because it cannot be implemented in sufficient time to meet the identified need.

### Summary of thoughts shared by the group

The difficulty of defining and measuring social licence was discussed, noting that for many businesses social licence is felt to be the outcome of the assessment process, as a result of good social performance and community engagement. It is built over time, not achieved in a short period.

- It was felt social licence and an option's credibility are things to build over time. It is better and more realistic to expect organisations to build trust in communities over time and be able to then demonstrate this growth in acceptance.
- Social licence being difficult to measure means it can also be subjective. The question of having it can therefore be difficult to answer and should not prevent a viable project from going ahead.
- Another risk raised regarding the difficulty of measuring social licence is the weight given to community opposition. There was a feeling in the group against rewarding project protestors and being conscious of balancing the needs of all community groups - it was not felt to be fair that one group may have more influence over another, as different stakeholder and community segments would hold different views.
- Considering how the National Electricity Rules define social licence, a project may not be considered credible if it does not have social licence. While the AER cannot change the definition, the AER can provide guidance to clarify how social licence can be built over time, as opposed to gaining it at the start of a project - all options are potentially credible but may require effort over time to remain credible.



### Questions asked

- If you don't have social licence, can an option be credible?
- Thinking about how the guidelines will be applied, are there sections where your organisation would benefit from examples or case studies being included? If so, where?

*"I think there is a risk of fetishising social licence that is detrimental to the overall narrative of fairness in the energy transition by rewarding protesting parties."*

*"It's a balance between the needs and wants of the community and the general good borne by the project."*

*"An option can be credible, but you build social licence over time to further demonstrate an option's credibility."*

# Discussion summary

## Considering costs of building social licence

### What is changing in the guidelines?

The inclusion of additional guidance to stakeholders on how the costs associated with building and maintaining social licence for major transmission projects should be considered and assessed as part of the RIT-T.

### What we sought views on

How to identify and calculate the costs associated with addressing social licence that can be included in the RIT-T, including worked examples.

### Summary of thoughts shared by the group

Overall, the group felt the activities to build social licence and how to cost them are currently not clear in the guidelines. Quantitative ways to measure would be welcomed.

- It was felt that community engagement is only one component of measuring and therefore costing social licence. Other practices/assessments come into play such as baseline studies, social impacts, economic impacts, and environment impacts; all of which are in foundation documents that the community would want to see in considering acceptability of a project. Costing these activities is one way businesses produce social licence, but currently where these categories of costs fit is not clear in the guidelines.
- The group questioned how the AER would assess prudence and efficiency of nominated investment in social licence, especially when a project may need to invest considerably more money later to respond to a breakdown in social licence earlier in a project. How are these costs accounted for? The point was made that these costs, including the cost burden of a delayed project due to poor social licence, should not be passed on to customers.
- When it comes to social licence and best practice, some noted they only have qualitative measures of this, not quantitative. One participant raised the example of investigating undergrounding in response to community feedback being a high-cost exercise that a business would be seeking guidance from the AER on about how to justify costs.

*"Developing and maintaining social licence is much more than engagement practices."*

*"Poor engagement and social licence breakdown can be enormously impactful of the costs consumers have to bear"*



### Questions asked

- Is it clear to you how a financial investment in social licence is accounted for in the RIT-T process and requirements? If not, what needs to be clarified?
- Has the AER got the balance right in terms of covering the delivery of social licence (i.e. project acceptability) in project costs, but not engagement that is aimed at building profile or improving reputation (i.e. project support)?
- Thinking about how the guidelines will be applied, are there sections where your organisation would benefit from examples or case studies being included? If so, where?

*"The guidelines need to help customers have confidence that the costs are robust and that they are accounted for."*

# Discussion summary

## Engagement

### What is changing in the guidelines?

- In its rule change the AEMC determined that, at the preparatory works stage, RIT-T proponents for actionable ISP projects must undertake engagement with stakeholders that are reasonably likely to be affected by the development of the project.
- They also specified who these stakeholders should include: local landowners, local council, local community members, local environmental groups and traditional owners.
- The renewed guidelines need to reflect these rule changes.

### What we sought views on

Feedback on the new expectations on transmission businesses regarding engagement with local communities and other stakeholders affected by major transmission projects - are they clear? Are they reasonable?

### Summary of thoughts shared by the group

While transmission businesses appreciate and value flexibility in their guidelines, they also desire support from the AER earlier in the process. They have good intentions to do the right thing and want early indications they have interpreted rules and requirements correctly.

- There was a preference among the group for a principles-based document. It was felt principles would allow for greater flexibility to adapt the guidelines for all types and scales of projects.
- There was a strong argument in favour of specific requirements - noting that principles would be difficult to quantify and then evaluate success. This could also mean greater risk of customers paying more.
- There was an acknowledgment in the group that opting for specific requirements could mean they would likely need to be updated more regularly as expectations change and new approaches emerge.
- Some took the opportunity to request that the AER also form a process for transmission businesses to get an earlier audience with them to confirm that their approach aligns with expectations - how can they test early whether or not the AER considers their activities 'reasonable'? There is concern among transmission businesses that by the time they get to the point of engaging with the AER, it may be too late and at a time when they've already commenced engagement.
- 'Reasonable endeavours' was seen to be the ability to demonstrate a business' ongoing response to community feedback. If they can track and report how they have improved sentiment or acceptance over time, and document how the community had input into the process, then you could say reasonable endeavours were made.
- In order to accurately identify reasonably affected stakeholders, a business needs to go out and talk with people, they cannot be prescribed in advance as each project is unique.



### Questions asked

- Thinking about guides for engagement, would you prefer something principles based to show evidence against in reporting OR specific or minimum requirements of activities to check off in reporting? Why?
- A key part of the AEMC's community engagement expectations is using "reasonable endeavours to address all categories of stakeholders in a tailored and effective manner". How would you define "reasonable endeavours"?

*"I am suggesting something specific and minimum is necessary for the AER and networks to do their job and for consumers at the end to get a bill that is reasonable."*

*"It's a balance between the needs and wants of the community and the general good borne by the project."*

*"The greater flexibility the better."*

