

Australian Energy Regulator
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Dear Australian Energy Regulator

Submission on AER Draft Amendments: Concerns Regarding Social Licence in Transmission and Distribution Network Planning Guidelines

Murrindindi Shire Council welcomes the opportunity to provide feedback on the draft amendments to the Cost Benefit Analysis (CBA), Regulatory Investment Test for Transmission (RIT-T), and Regulatory Investment Test for Distribution (RIT-D) guidelines, particularly regarding the inclusion of social licence as a consideration in network planning.

While the addition of social licence is a positive step towards enhancing community engagement and accountability, we have significant concerns about the strength of the proposed amendments. Specifically, the guidelines do not establish a clear threshold or requirement for obtaining a social licence, which could undermine the effectiveness of the changes.

Key Concerns

1. Lack of a Measurable Social Licence Threshold

The guidelines reference social licence but fail to specify a clear requirement or minimum threshold for achieving it. There is no concrete metric for when a transmission project has sufficiently gained social licence.

For example, a requirement should be included for a minimum of 80% acceptance (a lower ask than support) by a representative citizens panel before a project is given the green light. Providing approval for a project that failed to reach the minimum social licence requirement could be at the discretion of the government of the day, and its willingness to forego political capital by overruling the community sentiment. Without such a measurable target, the concept of social licence remains vague and open to interpretation, potentially allowing projects to proceed despite significant community resistance.

The lack of a mandated social licence target removes any accountability to on the part of the proponent to reach an acceptable outcome; it could also lead to disingenuous consultation attempts or token engagement activities with no intention to address genuine concerns.

2. Risk Allocation for Lack of Social Licence

There is no clear discussion in the guidelines about who bears the risk if a social licence is not obtained due to inadequate or poor community engagement. The lack of clarity on this matter could allow proponents to proceed with a project even after failing to achieve genuine social acceptance, without facing meaningful consequences. To ensure accountability, there should be a maximum percentage or value of the cost of community engagement that the proponent can pass on to the consumer. This is to be applied in all cases where they succeed or fail to secure a social licence.

This would protect consumers from shouldering the financial burden of disingenuous engagement processes or those that fail to deliver meaningful outcomes.

3. Risk of Inefficient Engagement Spending

The guidelines also fail to address the risk that proponents could spend unreasonable amounts on community engagement for projects unlikely to achieve a social licence, knowing that the consumer will ultimately bear the cost. There is a need for a cap on the amount that can be passed through to consumers for engagement activities, particularly when such engagement is conducted without genuine good faith or if the project is inherently controversial.

4. Authentic Engagement representation

The proposed guidelines do not address adequate representation or diversity requirements in community engagement processes, potentially excluding important perspectives. It is important that citizens panels include a mix of individuals, from landowners directly impacted by the project to those affected by broader landscape changes.

The use of community panels could be interpreted as a substitute for broader, genuine community engagement. The absence of a defined requirement for comprehensive public information sharing - such as background reports and detailed assessments - risks limiting the community's understanding of the project's full benefits and impacts, and could undermine informed decision-making, weakening trust in the engagement process.

Recommendations

- 1. Establish a clear threshold for social licence.** The guidelines should introduce a clear, measurable threshold for social licence acceptance—such as a minimum 80% acceptance by a representative citizens panel or similar stakeholder engagement mechanism. This threshold would provide transparency and confidence that community concerns have been adequately addressed before a project is allowed to proceed.
- 2. Define risk allocation for failure to obtain social licence.** The guidelines should stipulate that a proponent cannot pass through to consumers more than a set percentage of project costs, if they fail to obtain a social licence due to poor engagement. This would incentivise proponents to conduct meaningful and thorough engagement.
- 3. Cap on Engagement Costs.** The guidelines should include provisions to cap the amount a proponent can spend on engagement activities that can be passed through to consumers, particularly for projects that are unlikely to gain widespread community acceptance.

4. Authentic Representation and Comprehensive Engagement. The guidelines should require meaningful community participation, and citizens panels must include a balanced mix of individuals, to ensure that a wide range of perspectives is considered. Additionally, while community panels are a valuable tool for engagement, they should not replace genuine, comprehensive community involvement. The guidelines should stipulate that all relevant background reports and assessments are shared with the broader community to promote informed understanding and dialogue around both the benefits and impacts of the proposed projects.

The introduction of social licence into the CBA, RIT-T, and RIT-D guidelines is a step in the right direction. However, without a clear framework for measuring and defining a mandated minimal social licence threshold, or clear guidance on risk allocation and cost pass-through, these amendments may not fully achieve their intended purpose. Strengthening these aspects would ensure that community engagement is both meaningful and cost-effective, and that consumers are protected from unnecessary financial burden.

Thank you for considering this submission. I look forward to the AER addressing these concerns in the final amendments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Gallagher', written in a cursive style.

Mayor
Cr Damien Gallagher