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Mr Arek Gulbenkoglu
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Australian Energy Regulator
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Dear Arek,

AER's Capital Expenditure Incentive Guideline Review

Transgrid welcomes the opportunity to respond to the Australian Energy Regulator's (**AER's**) consultation paper on the Capital Expenditure Incentive Guideline (**the Guideline**). The AER is undertaking this consultation in accordance with the recent Rule change which introduced targeted ex post reviews to actionable ISP projects.[1]

Transgrid remains committed to delivering the major transmission projects that are required in NSW to support Australia's transition to net zero by 2050. The Australian Energy Market Operator's (**AEMO's**) 2024 Integrated System Plan (**ISP**) details the transmission investments that are needed to sustain and grow Australia's $2 trillion economy. AEMO's analysis shows that over the ISP planning horizon, optimal transmission investments of $16 billion will reduce costs for consumers by delivering benefits that will repay their investment costs; save consumers a further $18.5 billion in avoided costs; and deliver emissions reductions valued at $3.3 billion.[2] AEMO has also made it clear that all actionable ISP projects are needed urgently.[3]

While transmission networks are natural monopolies, this does not mean that project funding is guaranteed. On the contrary, transmission projects in Australia must compete for funding with other investment opportunities, nationally and internationally. Actionable ISP projects are high-value, complex and specialised projects and securing finance is more challenging because they are exposed to asymmetric risks, as costs may increase substantially due to delays in planning approvals, supply chain disruptions and other factors beyond the TNSP's control. Furthermore, in

1 AEMC, Final determination, Managing ISP project uncertainty through targeted ex post reviews, 1 August 2024.
2 AEMO, 2024 Integrated System Plan, June 2024, p. 73.
3 Ibid, p. 13.

relation to the allowed rate of return, there is currently no recognition or compensation for this additional risk.

It is also important to recognise that actionable ISP projects such as HumeLink and VNI West have required the support of concessional finance through the Rewiring the Nation fund to ensure that they can proceed as planned for the benefit of consumers. The Marinus Link project is also expected to require concessional finance. In the absence of concessional finance, it is highly doubtful that a positive investment decision could be secured for these projects given the existing risk-reward profile.

Transgrid's position is that the regulatory framework must be capable of sustaining the required level of investment, without relying on concessional finance. In this context, the AER's review of the capital expenditure incentive arrangements provides a timely opportunity to rebalance the current framework so that it is fair to consumers and promotes efficient investment in accordance with the National Electricity Objective. In particular, the AEMC's recent rule change that introduced ex post reviews for actionable ISP projects now creates a situation in which:

- The AER's ex post review may conclude that an overspend in respect of an actionable ISP project is prudent and efficient; and

- The AER's Capital Expenditure Sharing Scheme (**CESS**) can impose a financial penalty on the TNSP, even though the expenditure is found to be prudent and efficient in the AER's ex post review. Furthermore, the magnitude of the CESS penalty imposed on the TNSP is uncapped and has the potential to exceed several hundred million dollars.

We understand and support the need to oversee expenditure for prudency and efficiency, however the uncertainty created by the current framework does not support investment in mega scale actionable ISP projects. Specifically, it unfairly exposes providers of project finance to uncontrollable risks in a framework in which the regulated rate of return assumes a low-risk steady state environment.

As explained in the attached submission, the preferred remedy is to remove the application of CESS penalties from actionable ISP projects. This approach recognises that an appropriately applied ex post review provides sufficiently strong incentives to drive efficient performance. Specifically, the potential disallowance of any overspend amount that is found to be imprudent and inefficient provides a strong motivation for TNSPs to deliver these projects on time and on budget for the benefit of energy consumers. By removing the CESS penalty which was designed to apply to much smaller projects and investment, the risk-reward profile for actionable ISP projects will better support efficient investment in accordance with the National Electricity Objective.

As part of the AER consultation, Transgrid has developed by way of example, alternative, more complex remedies that would allow a combination of ex post reviews and the CESS regime to operate together in a more balanced way than the current arrangements. To assist the AER in its deliberations on this critically important investment criteria, the attached submission discusses those alternative solutions, although we believe they add complexity without improving the outcome for consumers compared to Transgrid's preferred solution.

Of these alternatives, the optimal option for consumers (Option 2) would apply the CESS only to those costs that are mostly directly within the TNSP's control, i.e. its own project costs, and apply the ex post review to the remaining expenditure categories in the event of a material cost overrun. While this approach is more complex than Transgrid's preferred remedy, it would ensure that the CESS and ex post reviews are employed in a more balanced way that does not undermine the incentives for efficient investment in mega scale infrastructure projects.

Transgrid notes that the AER has raised a number of other issues in relation to the application of the ex post review to actionable ISP projects. The attached submission also discusses these issues, while noting that the most significant matter is the need to exempt actionable ISP projects from the CESS regime or substantially amend it for actionable ISP projects.

If you or your staff require any further information or clarification on this submission, please contact Joshua Everson, Senior Manager Regulation, Policy and Advocacy at [redacted]

Yours faithfully

[redacted]

Maryanne Graham
Executive General Manager
Stakeholder, Regulatory and Corporate Affairs

1. Introduction

This submission responds to the AER's consultation paper on its Capital Expenditure Incentive Guideline (**the Guideline**). The consultation paper addresses the changes to the Guideline that are required to give effect to the AEMC's recent rule change, which applies targeted ex post reviews to actionable ISP projects. The most significant regulatory issue raised in the consultation paper relates to the interplay between the targeted ex post review and the Capital Expenditure Sharing Scheme (**CESS**). It is this issue which is the principal focus of our submission.

As explained in this submission, the AEMC's Rule change has exposed a flaw in how the ex post review and CESS regimes work together for actionable ISP projects. In particular, TNSPs are still exposed to penalty payments under the CESS in circumstances where the AER's ex post review has found the expenditure to be prudent and efficient. Transgrid's position is that this outcome is contrary to the long-term interests of consumers, as it undermines the incentives for efficient investment.

The overall risk-reward provided by the regulatory framework needs to be carefully designed to appropriately balance the interests of consumers and investors in relation to actionable ISP projects. This holistic review should consider the allowed rate of return, contingent risk allowances, pass-through provisions and incentive mechanisms as a continuum of the total investment proposition. As outlined in this submission, Transgrid's assessment is that the current framework in its totality provides inadequate incentives to proceed with actionable ISP projects. The exemption of ISP projects from the CESS would provide an improved risk-reward balance for consumers and investors.

The remainder of this submission is structured as follows:

- Section 2 discusses actionable ISP projects and explains how they differ significantly from other transmission and distribution projects.
- Section 3 addresses the issue of how the CESS and the ex-post review should be amended to provide a balanced framework that promotes efficient investment in the long-term interests of consumers.
- Section 4 discusses the remaining issues that have been raised in the consultation paper relating to the application of ex post reviews to actionable ISP projects.
- Section 5 provides concluding comments.

2. Actionable ISP projects – scale, risks and delivery

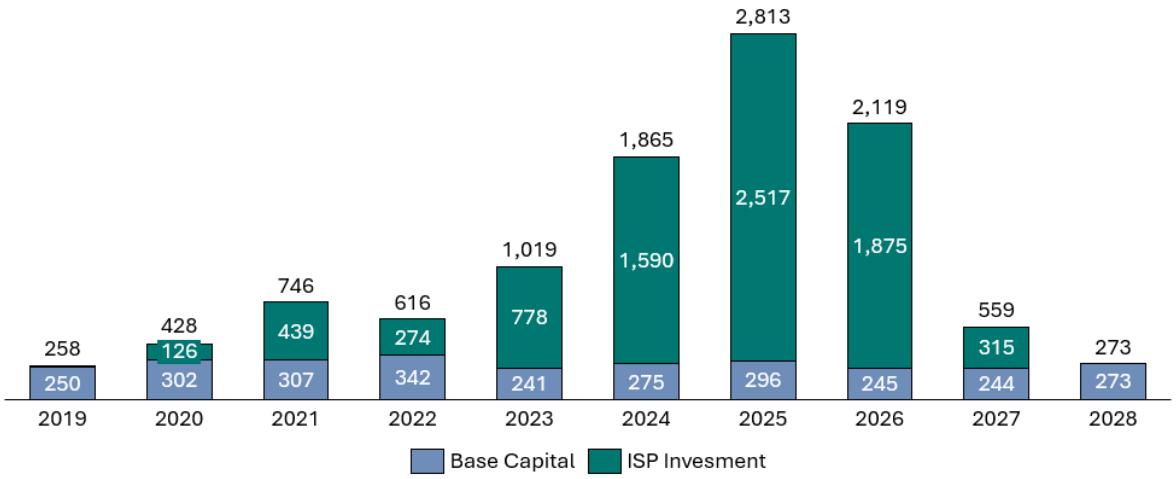
AEMO's ISP is a comprehensive investment plan for the National Electricity Market (**NEM**) that optimises consumer benefits and identifies transmission projects required for an affordable, secure and reliable energy future, while meeting prescribed emissions targets. AEMO's analysis shows that transmission investments of $16 billion, in present terms annualised to 2050, will provide substantial net benefits to customers including $18.5 billion in avoided costs and emissions reductions valued at $3.3 billion.[4]

Transgrid is already undertaking substantial investments to support this transition to net zero by 2050 through the delivery of the following projects:

- VNI and QNI Minor (Delivered)
- EnergyConnect
- HumeLink Stage 1 and 2
- VNI West Stage 1.

In total, these projects reflect a current approved allowance of $7.9 billion between the periods 2018-19 to 2027-28. In comparison, Transgrid's non-ISP network augmentation and maintenance works total $2.8 billion (about one-third of the investment in actionable ISP projects). A detailed project breakdown is shown in the Figure 1 below.

Figure 1: Transgrid's ISP investments compared to 'business as usual' expenditure ($ million, $2023 prices)



[4] AEMO, 2024 Integrated System Plan, June 2024, p. 73.

Subject to regulatory approvals and securing the necessary land access and environmental, cultural heritage approvals and final investment decision, Transgrid plans to deliver four additional projects identified as actionable and future actionable ISP projects:

- VNI West Stage 2
- Sydney Ring North (Hunter Transmission Project)
- Sydney Ring South and
- QNI Connect.

VNI West alone will add a further $4 billion in capital expenditure. This evolving landscape has changed the underlying balance between risk and return because actionable ISP projects have a fundamentally different risk profile compared to capital expenditure ordinarily undertaken by transmission and distribution networks across a broad portfolio of smaller projects. For example, the following factors have the potential to significantly affect cost outcomes for actionable ISP projects:

- **Labour resources**: Large investment is occurring in major infrastructure projects such as toll roads, rail and stadiums, which is putting pressure on specialist labour markets and engineering firms with cost and resourcing implications for actionable ISP projects.
- **Planning approvals**: Delays in planning approvals have the potential to impact actionable ISP projects in a manner that is materially different to traditional network investments. These delays are beyond the TNSP's control as they depend in large part on the response of affected parties and the planning authorities to planning applications.
- **International demand**: In addition to domestic pressures, the cost of delivering new transmission projects is also linked to international commodity prices for key inputs such as steel, copper and aluminium. These markets are inherently volatile, and the scale of actionable ISP projects amplifies this risk exposure.
- **Long lead times**: The relatively long period between contract pricing and commencement of the construction works;
- **Project duration**: The much longer construction periods compared to other capital expenditure, which exposes the TNSP and their contractors to greater risks associated with micro and macro changes in external circumstances; and
- **Cost-estimating process**: The need to provide cost estimates to the AER at a relatively early stage of the project, so that the prudency and efficiency of the forecast costs can be assessed.

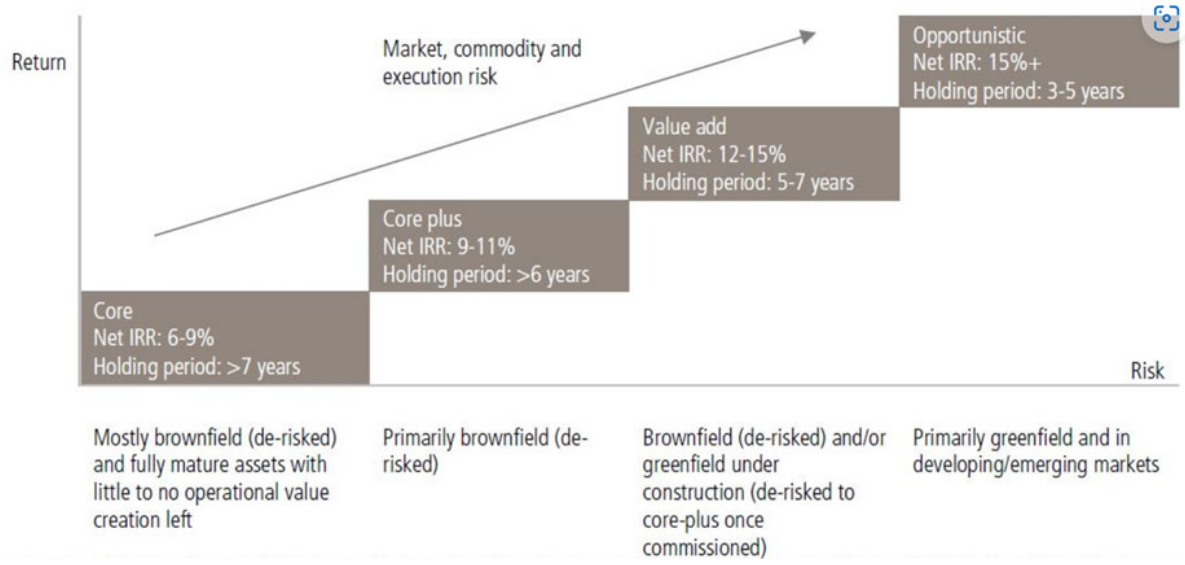
While these lead times are unavoidable consequences of the revenue-setting and contracting process, they undermine the effectiveness of the CESS. In particular, the CESS applies financial bonuses or penalties depending on whether the actual expenditure is lower or higher than the AER's allowance. For actionable ISP projects, however, these bonuses or penalties are more likely

to reflect forecasting errors that are beyond the TNSP's control and unrelated to the TNSP's efficiency performance.

As large-scale, complex greenfield projects, the risks in delivering actionable ISP projects are substantially greater than brownfield replacement and augmentation 'business as usual' network projects. The regulatory framework, including the CESS, has been designed to provide an appropriate risk-reward balance for a portfolio of these BAU projects, which together as a portfolio are inherently less risky. This point is evidenced by the rates of return that are typically observed for greenfield projects, such as actionable ISP projects, as opposed to traditional regulated network assets.

Figure 2 shows that greenfield infrastructure projects require rates of return of 12%-15% or greater, which are substantially above regulated returns. As noted in the source reference, this figure was prepared in 2021 when risk free rates were extraordinarily low and, therefore, required returns were equally low. Nevertheless, the key point is that the risks associated with greenfield projects command returns that are materially above current regulated returns.

Figure 2: An overview of infrastructure risk profiles



Source: Partners Group (2024), Mercer "Infrastructure investing – A primer" (2021). For illustrative purposes only. [5]

It is evident from the above discussion that actionable ISP projects expose TNSPs to substantially greater risk than BAU network projects. In the next section, we examine the current regulatory framework holistically to consider how these risks associated with actionable ISP projects can be managed, and the implications for the application of the CESS to these projects.

[5] Partners Group (2024), Mercer "Infrastructure investing – A primer" (2021), as quoted by LGT Crestone, Infrastructure investments - Stable, Uncorrelated and Predictable, November 2024.

3. Interactions between the CESS and ex post reviews

3.1. Overview of the current framework

As with any review, it is important to consider the regulatory framework holistically before making specific recommendations in isolation. The need for this holistic view has been made consistently by Transgrid's Advisory Council which is an advisory body that represents consumers' interests. This section provides a holistic overview and highlights the discrepancy between traditional and current risk profiles in terms of the size and scale of these mega greenfield projects.

At a high-level, the design of the regulatory framework should appropriately balance the interests of consumers and investors so that it promotes cost efficiencies and supports efficient investment. This concept is reflected in the National Electricity Objective, which is[6]:

> '…to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity….'

The twin objectives of promoting cost efficiencies and efficient investment are also reflected in the following Revenue and Pricing Principles that the AER is required to consider in making regulatory decisions:[7]

- A regulated network service provider should be provided with a reasonable opportunity to recover *at least the efficient costs* of providing regulated services…
- A regulated network service provider should be provided with *effective incentives in order to promote economic efficiency*…
- Regard should be had to the *economic costs and risks* of the potential for under and over investment by a regulated network service provider…

As explained in the previous section, the size and scale of Actionable ISP projects makes them inherently more risky than other capital expenditure projects and programs of work. In the context of balancing risk and reward, it is important to examine how these increased risks are currently addressed in the regulatory framework. Specifically, the regulatory framework provides three potential mechanisms for compensating TNSPs for the inherently higher risk arising during the construction phase of these projects:

- **A higher allowed rate of return**

  In Transgrid's submission to the AER's 2022 Rate of Return Instrument (**RORI**), we proposed that the AER should provide a greenfield risk allowance for the construction phase of major projects. Our submission explained that ongoing network operations and major new construction activities should each be compensated in accordance with the risks involved

[6] National Electricity Law, section 7.

[7] National Electricity Law, sections 7(2), (3) and (6). For brevity, these provisions are not set out in full.

rather than assuming that new construction activities have the same risk profile, and therefore rate of return, as ongoing network operations.[8]

The AER's 2022 RORI decision did not adopt Transgrid's proposal and instead applied the same rate of return across all transmission and distribution investments. As such, the additional construction risks inherent in actionable ISP projects are not compensated by the existing allowed rate of return.

- **Contingent risk allowance**

  The AER provides a contingent risk allowance in its revenue decisions for actionable ISP projects. The AER's approach is to provide a risk allowance for asymmetric risks using a 'P50' probability of exceedance. This methodology, however, is subject to considerable debate as project risks are not necessarily well-understood or known at the time of the AER's decision. For example, history is often used as the basis for assessing the P50 probability, and history is not always an appropriate basis for considering the outcome of future events. In the case of HumeLink, the AER concluded that the risk allowance should be approximately 30% lower than Transgrid's estimate.[9] A significant portion of the remaining contingency was drawn down immediately due to the significant planning delays which were outside of Transgrid's control.

  The AER's existing methodology does not fully compensate TNSPs for the significant downside risks associated with actionable ISP projects. These downside risks far outweigh the outperformance opportunity, which are principally limited to a component of the TNSP's project management costs. In addition to only providing a P50 allowance, which reflects the median risk exposure, it cannot compensate for unforeseen or unknown risks. As the CESS is applied to differences between the actual project expenditure and the AER's allowance, this reduction in the risk allowance increases Transgrid's exposure to a CESS penalty.

- **Pass through provisions**

  This mechanism allows the costs of events that are beyond the TNSP's control to be passed through to customers, subject to the AER's approval. Customers benefit from pass through mechanisms because TNSP's are only compensated for the actual costs incurred, rather than an estimated cost plus a risk allowance.

  In relation to HumeLink, however, the AER disallowed project specific pass-through provisions on the basis that these were not permitted under the National Electricity Rules.[10] Accordingly, it is not possible to propose pass through provisions that allow specific risks relating to actionable ISP projects that are beyond the TNSP's control, such as the cost of biodiversity offsets, to be passed onto customers.

In summary, the combination of factors described above suggests that either the rate of return should be increased to reflect those obtained by greenfield infrastructure projects in the competitive sector, or the risk exposure should be reduced from current levels. This provides important context

[8] Transgrid, Submission to AER working papers, March 2022, p.5
[9] AER, Determination, Transgrid HumeLink Stage 2 Contingent Project, August 2024, p.29
[10] AER, Determination, Transgrid HumeLink Stage 2 Contingent Project, August 2024, p.10

for the interplay between the CESS and the ex-post review which are two mechanisms that are each designed to create incentives for these projects to be delivered prudently and efficiently.

3.2. Issues to be resolved

The AEMC has requested that the AER reviews the current interplay between the ex-post review and the CESS for actionable ISP projects, now that ex post reviews can be applied to each actionable ISP project. The AEMC's concern is that:

- The AER's ex post review may conclude that an overspend in respect of an actionable ISP project is prudent and efficient; and

- The AER's CESS could impose a financial penalty on the TNSP, despite a positive finding in the ex-post review. The CESS penalty is uncapped and potentially could exceed several hundred million dollars.

In this situation, a financial penalty is applied under the CESS even though the AER's ex post review has concluded that the overspend amount is efficient.[11] This outcome arises because the CESS is a desktop calculation that applies a penalty or bonus on the basis of any difference between forecast and actual capital expenditure, no matter the reason for the difference. By its nature, the ex post review will provide a more valid assessment of prudency and efficiency than the CESS calculation, providing that the ex-post review is applied appropriately. In particular, it should not be applied with the benefit of hindsight[12] and should only remove expenditure which is imprudent and inefficient.

Transgrid's position is that the current interplay between the CESS scheme and the ex-post review is inconsistent with the National Electricity Objective and the Revenue and Pricing Principles noted earlier. In particular, the combined operation of the CESS and ex post reviews to actionable ISP projects will undermine the incentives for efficient investment which is contrary to the interests of consumers. As explained in the previous section, the regulatory framework does not provide a rate of return commensurate with the increased risks of delivering large scale actionable ISP projects, nor does it provide a mechanism to pass through uncontrollable project risks. In this context, the exposure to a CESS penalty further undermines the investment case for actionable ISP projects.

In making this observation, Transgrid notes that while HumeLink has been able to proceed under the current regulatory framework, it has done so with the support of underwrites from the Commonwealth and a concessional finance package from the Clean Energy Finance Corporation as well as a capped CESS. In the absence of that support, it is highly unlikely that HumeLink would be able to proceed as planned. As such, the incentive framework that currently applies to

[11] A CESS penalty is also unnecessary if the AER's ex post review concludes that some costs are inefficient. In this case, the CESS penalty should not apply to avoid a double penalty. The AER's current guidelines already address this issue.

[12] As required by Clause S6A.2.2A(h)(2) of the Rules.

HumeLink is not a credible benchmark for a sustainable regulatory model that supports the delivery of actionable ISP projects.

3.3. Proposed amendments

To address the issues raised by the AEMC, the AER could remove the application of CESS penalties from actionable ISP projects. This approach recognises the powerful incentives to drive efficient performance that are provided by an appropriately applied ex post review. These incentives are further strengthened by the likelihood that an ex post review will apply to an actionable ISP project, noting the risk of cost overruns and the project specific application of the ex post review. The disallowance of any overspend amount that is found to be imprudent and inefficient will provide a strong motivation for TNSPs to deliver these projects on time and on budget for the benefit of consumers. By removing the CESS penalty, the risk-reward profile for actionable ISP projects will be improved in a way that better supports efficient investment in accordance with the National Electricity Objective.

While the best solution is to exempt actionable ISP projects from the CESS, there are alternative, more complex remedies that we understand the AER will consider, that would involve a combination of ex post reviews and the CESS regime, which Transgrid has assessed and provides the following comments:

Option 1: A capped CESS combined with an ex post review

Under this option, the CESS would operate up to the point where total project costs exceed the allowance by 10%. Beyond this point, the CESS would no longer apply. The ex-post review would only apply in relation to any overspend that exceeds the allowance by 10% if the AER regards the overspend as material. For example:

- If the total forecast project costs are $4,000 million, the CESS would apply to an overspend amount of $400 million (i.e. up to total project costs of $4,400 million);
- The ex-post review would only be triggered if the overspend exceeded $4,400 million, and would only apply to any material amount above this level, i.e., it cannot remove any expenditure relating to the $400 million to which the CESS applies;
- In this example, if the total project costs were $4,500 million, then the CESS will apply to $400 million and the ex post review would apply to $100 million; and
- The TNSP would propose the CESS incentive rate that would apply to the applicable overspend amount, noting that the current default rate is 30%, still representing a significant penalty in this case.

This approach focuses ex-post reviews on more material cost overruns, while applying the CESS to the overspend that is not subject to an ex-post review. This mechanism also caps the potential exposure from the CESS penalty, and goes some part to diminish the adverse impact on investment incentives that arises from the current arrangements. The downside

with this option is that a CESS penalty would continue to apply in relation to cost increases that are beyond the TNSP's control that may be deemed prudent and efficient by the AER.

- **Option 2: A targeted CESS combined with an ex-post review**

  This option is a variant on Option 1, where the CESS is focused on costs that are more directly within the TNSP's control, i.e. its own project costs, and would exclude the costs of contracted services which are largely outside the TNSP's control. In all other respects, this option would operate in a similar manner to Option 1 - the ex-post review would apply to costs other than the TNSP's own costs (as these costs would be subject to the CESS).

  This option targets the CESS to those costs that are largely within the TNSP's control. On that basis, this Option is considered superior to Option 1. Similar to Option 1, it avoids the overlap between the ex-post review and the CESS, which is the source of the problem raised by the AEMC. While this approach is more complex than Transgrid's preferred solution, it would ensure that the ex-post review and CESS are employed in a more balanced way that does not undermine the incentives for efficient investment.

- **Option 3: A modified CESS incentive, with no ex-post review**

  This option would apply a modified CESS penalty rate and would remove the ex-post review. The primary benefit of this approach is that it would reduce the negative impact of the current arrangements on incentives for efficient investment. However, it would continue to leave TNSP's exposed to substantial CESS penalties that are not warranted. We also note that this option would be at odds with the AEMC's Rule change which introduced the ability of the AER to undertake targeted ex post reviews for individual Actionable ISP projects. The AER may therefore consider that this option cannot be adopted, although it presents a reasonable remedy to the problem identified by the AEMC.

For the reasons set out above, Transgrid's strong preference is for actionable ISP projects to be exempt from the CESS. This remedy addresses the issues identified by the AEMC and ensures that the incentives for efficient investment in actionable ISP projects are not undermined, and consumers are the beneficiaries of prudent investment. Of the alternative three options discussed above, Option 2 provides a role for the CESS and ex post reviews while addressing the issue raised by the AEMC.

4. Other matters raised in the consultation paper

The AER has outlined several other changes to the Guideline to align it with the new arrangements for applying ex post reviews to each actionable ISP project. This section responds to four issues:

- Separate targeted ex post review for ISP projects and non-ISP projects;
- Reviewable ISP project;
- Modifications to the CESS to accommodate multi-period ISP projects; and
- Incentivising efficient abandonment.

We address each of these topics in turn.

4.1. Separate targeted ex post review for ISP projects and non-ISP projects

The AER's consultation paper explains how it intends to separate targeted ex post review for ISP projects and non-ISP projects, which is a requirement of the AEMC's Rule change. As part of this consideration, the AER has indicated that it intends to retain its two-stage process for actionable ISP projects.

While Transgrid broadly supports the AER's proposed approach, additional guidance on how it will assess prudency and efficiency for actionable ISP projects would be appreciated. Transgrid would welcome the AER's further consideration of this issue in its draft updated Guideline.

4.2. Reviewable ISP project

In line with the Final Rule, the AER will introduce the terms "ISP project review period" and "reviewable ISP project". Once a project has been substantially completed, it becomes a "reviewable ISP project" in which the AER can undertake an ex post review over the period in which the ISP project was constructed.

We support the introduction of these terms and also encourage the AER to consider the following:

- The 'substantially complete' threshold is the point in which only the remaining works associated with commissioning and energising the assets is outstanding, and not before.
- Substantially complete projects which have not incurred an overspend, and are not forecast to materially overspend, should not be subject to an ex post review.
- It is preferable to conduct the ex post review in a manner that avoids the need for a true up post the AER's determination.

4.3. Modifications to the CESS to accommodate multi-period ISP projects

The current CESS Guideline includes a mechanism to reverse any CESS penalty for capital expenditure that is subsequently found to be inefficient as part of an ex post review. This ensures that a TNSP does not face a penalty above 100% of the inefficient overspend. This mechanism,

however, is limited to a five-year ex post review period. The AER is proposing to allow CESS adjustments over multiple prior regulatory control periods following an ISP ex post review.

We support the proposed AER's change but note that this CESS benefit reversal should be calculated in a way which leaves the TNSP whole in present value terms. Transgrid also supports the AER's proposal to only conduct ex post reviews where the project capex overspend is materially significant.

4.4. Incentivising efficient abandonment

Under the AER's current CESS framework, if a TNSP chooses to not undertake a project, the TNSP would receive a CESS reward. The AER acknowledges that there are potential benefits to consumers from TNSPs reprioritising capex which may result in some projects not going ahead. We agree with this statement as TNSPs regularly review all project parameters and will only abandon projects when it is not prudent to continue.

Where the decision is taken for an ISP project to be efficiently abandoned, then it would be reasonable for:

- the TNSP to recover the costs incurred to date by including those costs in the RAB; and
- any CESS benefit that may have inadvertently been generated from an abandoned project be annulled.

As explained in the previous section, Transgrid's position is that the CESS should not apply in relation to actionable ISP projects.

5. Concluding comments

The most significant issue to be considered by the AER under the current scope of the review is the current interplay between the ex-post review and the CESS. As explained in this submission, the preferred remedy is to remove the application of CESS from actionable ISP projects. This approach recognises that:

- The current regulatory framework does not adequately compensate TNSPs for the significantly increased risks associated with Actionable ISP projects, nor does it allow project-specific risks outside the control of the TNSP to be passed through; and
- The current framework which provides the AER with discretion to apply an ex-post review in the case of a material overrun provides powerful incentive to drive efficient performance.