

# Draft Decision

## Transgrid Transmission Determination 2023 to 2028

(1 July 2023 to 30 June 2028)

### Attachment 13 Pass through events

September 2022

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## Note

This attachment forms part of the AER’s draft decision on Transgrid’s 2023–28 transmission determination. It should be read with all other parts of the draft decision.

The draft decision includes the following documents:

Overview

Attachment 1 – Maximum allowed revenue

Attachment 2 – Regulatory asset base

Attachment 3 – Rate of return

Attachment 4 – Regulatory depreciation

Attachment 5 – Capital expenditure

Attachment 6 – Operating expenditure

Attachment 7 – Corporate income tax

Attachment 8 – Efficiency benefit sharing scheme

Attachment 9 – Capital expenditure sharing scheme

Attachment 10 – Service target performance incentive scheme

Attachment 11 – Demand management innovation allowance mechanism

Attachment 12 – Pricing methodology

Attachment 13 – Pass through events

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## 13 Pass through events

During the regulatory control period, Transgrid can apply to pass through to its customers, in the form of higher or lower network charges, certain material changes in its costs caused by pre-defined exogenous events. These events are called cost pass through events. 'Positive' pass throughs allow Transgrid to recover the efficient costs incurred as a result of events that could not be forecast as part of its regulatory proposal that otherwise would have a significant financial effect on Transgrid's ability to invest in and operate its network.<sup>1</sup>

The National Electricity Rules (NER) prescribe the following pass through events for all transmission determinations:<sup>2</sup>

- a regulatory change event
- a service standard event
- a tax change event
- an insurance event
- an inertia shortfall event
- a fault level shortfall event

In addition to these prescribed events, other pass through events may be 'nominated' by a service provider to be specified in a transmission determination as a pass through event for a regulatory control period.<sup>3</sup> This attachment sets out our draft decision on the nominated pass through events to apply to Transgrid for the 2023–28 regulatory control period (2023–28 period).

### 13.1 Draft decision

Our draft decision, pursuant to clause 6A.14.1(9) of the NER, is to accept Transgrid's nominated pass through events, subject to some minor amendments to Transgrid's proposed definitions. Accordingly, we accept in this draft decision that the following additional pass through events will apply to Transgrid for the 2023–28 period:

- insurance coverage event
- insurer's credit risk event
- natural disaster event
- terrorism event.

These events are defined in Table 13.2 which reflects the minor amendments we have made to the definition of insurance coverage event proposed by Transgrid. Further, we have changed the name of Transgrid's proposed 'insurer's credit risk default' event to 'insurer's

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<sup>1</sup> AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 2.

<sup>2</sup> NER r. 6A.7.3(a1)(1)–(4) and (5)–(7).

<sup>3</sup> NER, r. 6A.7.3(a1)(5).

credit risk' event to ensure consistency with our recent electricity transmission and distribution determinations.

We acknowledge there is some overlap between the prescribed insurance event in the NER, and the nominated insurance coverage pass through event and the insurer's credit risk event. We have considered the nominated pass through consideration of whether the event proposed is covered by a prescribed event in the NER,<sup>4</sup> and nonetheless consider there is merit in including the insurance coverage and insurer's credit risk pass through events in our draft decision. This approach provides consistency across our recent determinations and we see value in providing greater clarity to network businesses on the operation of these events by including the same level of detail in their definitions as for the Victorian, South Australian and Queensland distributors.<sup>5</sup>

## 13.2 Transgrid's proposal

Transgrid proposed four nominated pass through events for the 2023–28 period, as set out in Table 13.1.<sup>6</sup> These four proposed events are largely consistent with the nominated pass through events as approved in the 2018–23 determination, with updates to event definitions consistent with our recent determinations.

**Table 13.1 Transgrid's proposed nominated pass through events**

Proposed event	Proposed definition
Insurance coverage event	<ol style="list-style-type: none"> <li>1. Transgrid:               <ol style="list-style-type: none"> <li>a) Makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy or set of insurance policies; or</li> <li>b) would have been able to make a claim or claims under a relevant insurance policy or set of insurance policies but for changed circumstances; and</li> </ol> </li> <li>2. Transgrid incurs costs:               <ol style="list-style-type: none"> <li>a) beyond a relevant policy limit for that policy or set of insurance policies; or</li> <li>b) that are unrecoverable under that policy or set of insurance policies due to changed circumstances; and</li> </ol> </li> <li>3. The costs referred to in paragraph 2 above materially increase the costs to Transgrid in providing prescribed transmission services.</li> </ol> <p>For the purposes of this insurance coverage event:</p> <p>'<i>changed circumstances</i>' means movements in the relevant insurance liability market that are beyond the control of Transgrid, where those</p>

<sup>4</sup> See NER, Chapter 10 – Glossary, nominated pass through event considerations definition.

<sup>5</sup> AER, *Final decision, SA Power Networks distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 13–15; AER, *Final decision, Ergon Energy distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 9–10; AER, *Final decision, Energex distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 9–10; AER, *Final decision, AusNet Services distribution determination 2021–26, Attachment 15 – Pass through events*, April 2021, pp. 9–13.

<sup>6</sup> Transgrid, *Revenue proposal 2023–28*, 31 January 2022, pp. 157-162.

	<p>movements mean that it is no longer possible for Transgrid to take out an insurance policy or set of insurance policies at all or on reasonable commercial terms that include some or all of the costs referred to in paragraph 2 above within the scope of that insurance policy or set of insurance policies.</p> <p>‘costs’ means the costs that would have been recovered under the insurance policy or set of insurance policies had:</p> <ol style="list-style-type: none"> <li>i. the limit not been exhausted, or</li> <li>ii. those costs not been unrecoverable due to changed circumstances.</li> </ol> <p>A relevant insurance policy or set of insurance policies means an insurance policy or set of insurance policies held during the regulatory control period or a previous regulatory control period in which Transgrid was regulated.</p> <p>Note: In assessing an insurance coverage event through application under Clause 6A.7.3 of the Rules, the AER will have regard to:</p> <ol style="list-style-type: none"> <li>i. the relevant insurance policy or set of insurance policies for the event;</li> <li>ii. the level of insurance that an efficient and prudent Network Service Provider (NSP) would obtain, or would have sought to obtain, in respect of the event;</li> <li>iii. any information provided by Transgrid to the AER about Transgrid’s actions and processes; and</li> <li>iv. any guidance published by the AER on matters the AER will likely have regard to in assessing any insurance coverage event.</li> </ol>
Insurer’s credit risk default event	<p>An insurer credit risk event occurs if an insurer of Transgrid becomes insolvent, and as a result, in respect of an existing or potential claim for a risk that was insured by the insolvent insurer, Transgrid:</p> <ol style="list-style-type: none"> <li>a) is subject to a higher or lower claim limit or a higher or lower deductible than would have otherwise applied under the insolvent insurer’s policy, or</li> <li>b) incurs additional costs associated with funding an insurance claim, which would otherwise have been covered by the insolvent insurer.</li> </ol> <p>Note: In assessing an insurer credit risk event pass through application, the AER will have regard to, amongst other things:</p> <ol style="list-style-type: none"> <li>i. Transgrid’s attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer’s track record, size, credit rating and reputation, and</li> <li>ii. in the event that a claim would have been covered by the insolvent insurer’s policy, whether Transgrid had reasonable opportunity to insure the risk with a different provider.</li> </ol>
Natural disaster event	<p>Natural disaster event means any natural disaster including but not limited to cyclone, fire, flood or earthquake that occurs during the 2023–28 regulatory control period that changes the costs to Transgrid in providing prescribed transmission services, provided the cyclone, fire, flood, earthquake or other event was:</p>

	<p>a) a consequence of an act or omission that was necessary for Transgrid to comply with a regulatory obligation or requirement or with an applicable regulatory instrument, or</p> <p>b) not a consequence of any other act or omission of Transgrid.</p> <p>Note: In assessing a natural disaster event pass through application, the AER will have regard to, amongst other things:</p> <p>i. whether Transgrid has insurance against the event;</p> <p>ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event.</p>
Terrorism event	<p>Terrorism event means an act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which:</p> <p>a) from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear), and</p> <p>b) changes the costs to Transgrid in providing prescribed transmission services.</p> <p>Note: In assessing a terrorism event pass through application, the AER will have regard to, amongst other things:</p> <p>i. whether Transgrid has insurance against the event;</p> <p>ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and</p> <p>iii. whether a declaration has been made by a relevant government authority that a terrorism event has occurred.</p>

Source: Transgrid, *Revenue proposal 2023–28*, 31 January 2022, pp. 159–162.

### 13.3 Assessment approach

The NER set out how we must assess nominated pass through events, and how we must assess an application from a service provider to pass through changes in costs where an event occurs.

Our assessment approach is guided by the National Electricity Objective<sup>7</sup> and the revenue and pricing principles.<sup>8</sup> These principles provide, relevantly, that the service provider should have a reasonable opportunity to recover at least the efficient costs of providing services and complying with regulatory obligations.<sup>9</sup> They also reflect the importance of incentives to promote economic efficiency<sup>10</sup> and balance the risks of under and over investment.<sup>11</sup> In the context of pass through events, we have particular regard to the impact on price, quality,

<sup>7</sup> NEL, s. 7.

<sup>8</sup> NEL, s.7A(2)–(7).

<sup>9</sup> NEL, s. 7A(2).

<sup>10</sup> NEL, s.7A(3).

<sup>11</sup> NEL, s. 7A(6).



reliability and security of supply that may arise as a result of any change in the efficient operation of, and ability and incentive of, a service provider to invest in its network. This is a similar approach to that taken by the Australian Energy Market Commission (AEMC) when considering pass through event rule changes.<sup>12</sup>

In determining whether we accept a nominated pass through event, we must take into account the 'nominated pass through event considerations', which are as follows:<sup>13</sup>

- a) whether the event proposed is an event covered by a category of pass through event specified in clause 6.6.1(a1)(1) to (4) (in the case of a distribution determination) or clause 6A.7.3(a1)(1) to (4) (in the case of a transmission determination);
- b) whether the nature or type of event can be clearly identified at the time the determination is made for the service provider;
- c) whether a prudent service provider could reasonably prevent an event of that nature or type from occurring or substantially mitigate the cost impact of such an event;
- d) whether the relevant service provider could insure against the event, having regard to:
  1. the availability (including the extent of availability in terms of liability limits) of insurance against the event on reasonable commercial terms; or
  2. whether the event can be self-insured on the basis that:
    - i. it is possible to calculate the self-insurance premium; and
    - ii. the potential cost to the relevant service provider would not have a significant impact on the service provider's ability to provide network services; and
- e) any other matter the AER considers relevant and which the AER has notified Network Service Providers is a nominated pass through event consideration.

The AEMC described the purpose of the nominated pass through event considerations as:

- to incorporate and reflect the essential components of a cost pass through regime in the NER. It was intended that in order for appropriate incentives to be maintained, any nominated pass through event should only be accepted when event avoidance, mitigation, commercial insurance and self-insurance are unavailable. That is, a cost pass through event is the least efficient option for managing the risk of unforeseen events.<sup>14</sup>
- that a pass through event should only be accepted when it is the least inefficient option and event avoidance, mitigation, commercial insurance and self-insurance are found to be inappropriate. That is, it is included after ascertaining the most efficient allocation of risks between a service provider and end customers.<sup>15</sup>

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<sup>12</sup> NEL, s. 7; AEMC, *Cost pass through arrangements for Network Service providers*, Rule Determination, 2 August 2012, p. 6.

<sup>13</sup> NER, Chapter 10, definition of nominated pass through event consideration.

<sup>14</sup> AEMC, *Cost pass through arrangements for Network Service Providers*, Rule Determination, 2 August 2012, p. 19.

<sup>15</sup> AEMC, *Cost pass through arrangements for Network Service Providers*, Rule Determination, 2 August 2012, p. 20.

This protects the incentive regime under the NER by limiting erosion of a service provider's incentives to use market-based mechanisms to mitigate the cost impacts that would arise.<sup>16</sup> This promotes the efficient investment in, and efficient operation and use of, network services for the long term interests of consumers with respect to price.<sup>17</sup> This is a similar approach to that taken by the AEMC when considering pass through event rule changes.<sup>18</sup>

As a matter of good regulatory practice, we also take into account the desirability of consistency in our approach to assessing nominated pass through events across our electricity and gas determinations.<sup>19</sup>

### 13.3.1 Interrelationships

The pass through mechanism is not the only way service providers can manage their risks under a distribution or transmission determination. It is interrelated with other parts of this decision, in particular with the forecast operating expenditure (opex), capital expenditure (capex) and rate of return included in our revenue determination. These interrelationships require us to balance the incentives in the various parts of our decision.

For systemic risks, service providers are compensated through the allowed rate of return. Service providers also face business-specific, or residual, risks. Service providers are compensated for the prudent and efficient management of these risks through the forecast opex and capex we include in our revenue determination for strategies such as:

- prevention (avoiding the risk)
- mitigation (reducing the probability and impact of the risk)
- insurance (transferring the risk to another party)
- self-insurance (putting aside funds to manage the likely costs associated with a risk event).

An efficient business will manage its risk by employing the most cost-effective combination of these strategies. In order to maintain appropriate incentives under our determinations, we only accept nominated pass through events where we are satisfied that event avoidance, mitigation, commercial insurance and self-insurance under approved forecasts of prudent and efficient opex and capex are either unavailable or inappropriate.<sup>20</sup>

In general, in respect of smaller projects, a service provider should be using its existing expenditure allowance, or reprioritising or substituting its projects, to avoid seeking cost

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<sup>16</sup> AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 8.

<sup>17</sup> AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 8.

<sup>18</sup> AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 6.

<sup>19</sup> AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 18.

<sup>20</sup> AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 19–20.

recovery through the pass through mechanisms.<sup>21</sup> This is reflected in the materiality threshold that applies to cost pass throughs applications.<sup>22</sup>

Cost pass through amounts approved in a regulatory control period are added to (or in the case of a negative pass through, deducted from) forecast opex and capex for the purpose of calculating efficiency carryover amounts under the efficiency benefit sharing scheme and capital expenditure sharing scheme, respectively.<sup>23</sup>

Cost pass through amounts that have already been recovered in a regulatory period cannot be recovered again in the roll-forward of the regulatory asset base for the next regulatory control period.<sup>24</sup>

## 13.4 Reasons for draft decision

### 13.4.1 Insurance coverage event

Our draft decision is to include an insurance coverage event, subject to amendments being made to the insurance coverage event definition proposed by Transgrid. We have included amended wording for these definitions, in part to maintain consistency with other recent decisions.<sup>25</sup> The draft decision insurance coverage event definition is set out in Table 13.2.

Transgrid proposed to replace the existing insurance cap event with an insurance coverage event. Transgrid notes that the two events are consistent with each other, with the proposed insurance coverage event amended to include changes which were made in our recent regulatory decisions.<sup>26</sup> Specifically, in the recent Victorian 2021–26 electricity distribution determinations,<sup>27</sup> we made definitional amendments to capture where insurance coverage may comprise multiple layers and or insurers.

We inserted three key changes to the definition:

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<sup>21</sup> AEMC, *Economic Regulation of Network Service Providers, and Price and Revenue Regulation of Gas Services, Final Position Paper*, 29 November 2012, p. 186.

<sup>22</sup> NER, Chapter 10: Glossary, definition of 'materially'.

<sup>23</sup> AER, *Efficiency Benefit Sharing Scheme for Electricity Network Service Providers*, November 2013, p. 7; AER, *Capital Expenditure Incentive Guideline for Electricity Network Service Providers*, November 2013, p. 13.

<sup>24</sup> NER, cl. S6.2.1(e)(1)(ii) and 6A.2.1(f)(1)(ii).

<sup>25</sup> AER, *Final decision, AusNet Services Distribution Determination 2021 to 2026, Attachment 15 Pass through events*, April 2021, pp. 16–17; AER, *Final decision, Powercor distribution determination 2021 to 2026, Attachment 15 Pass through events*, April 2021, pp. 15–16; AER, *Draft decision, Powerlink transmission determination 2022 to 2027, Attachment 12 Pass through events*, September 2021, p. 13; AER, *Final decision, AusNet Services transmission determination 2022 to 2027, Attachment 13 Pass through events*, January 2021, pp. 6.

<sup>26</sup> Transgrid, *Revenue proposal 2023–28*, 31 January 2022, p. 158.

<sup>27</sup> AER, *Final decision, Powercor distribution determination 2021 to 2026, Attachment 15 Pass through events*, April 2021, pp. 15–16; AER, *Final decision, CitiPower distribution determination 2021 to 2026, Attachment 15 Pass through events*, April 2021, p. 13–14; AER, *Final decision, United Energy distribution determination 2021 to 2026, Attachment 15 Pass through events*, April 2021, p. 15–16; AER, *Final decision, Jemena distribution determination 2021 to 2026, Attachment 15 Pass through events*, April 2021, pp. 12–13; AER, *Final decision, AusNet Services distribution determination, 2021 to 2026, Attachment 15*, April 2021, pp. 16–17.

- ‘changed circumstances’ means movements in the relevant insurance liability market that are beyond the control of the network business, where those movements mean that it is no longer possible for the network business to take out an insurance policy or set of insurance policies at all or on reasonable commercial terms that include some or all of the costs referred to in the definition within the scope of that insurance policy or set of insurance policies
  - In this draft decision we have broadened the meaning of ‘changed circumstances’ by referring to ‘insurance market’ instead of ‘insurance liability market’ and adding ‘including liability insurance’ to reflect that the scope of the insurance coverage event is broader than liability insurance. This is in response to a concern raised by ElectraNet that, if we maintain our definition of ‘changed circumstances’ as drafted in our recent determinations,<sup>28</sup> it suggests the insurance coverage event is only limited to liability insurance.<sup>29</sup>
- ‘costs’ means the costs that would have been recovered under the insurance policy or set of insurance policies had:
  - the limit not been exhausted; or
  - those costs not been unrecoverable due to changed circumstances.
- ‘a relevant insurance policy or set of insurance policies’ means an insurance policy or set of insurance policies held during the regulatory control period or a previous regulatory control period in which a network business was regulated.

These key changes recognised the possibility of future coverage gaps (negative impacts on deductible schedules or reinstatement rights due to movements in the insurance liability market that are beyond the control of the network business) and that network businesses often have multiple insurance policies. At the same time, we sought to preserve appropriate pass through event incentives under a normal operating environment.

We also included the following as a matter the AER will have regard to in assessing an application: ‘any guidance published by the AER on matters the AER will likely have regard to in assessing any insurance coverage event that occurs’. This aligned with the release of our final guidance note on the insurance coverage pass through event in July 2021.<sup>30</sup>

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<sup>28</sup> AER, *Final decision, AusNet Services Distribution Determination 2021–26, Attachment 15 Pass through events*, April 2021, p.16; AER, *Draft Decision, Powerlink Queensland Transmission Determination 2022 to 2027, Attachment 12 Pass through events, September 2021*, p. 13; AER, *Final Decision, SA Power Networks distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 13–14; AER, *Final decision, Ergon Energy distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 9–10; AER, *Final decision, Energex distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 9–10.

<sup>29</sup> *ElectraNet, Revenue proposal 2024-28, ENET014 - ElectraNet - Attachment 12 - Pass Through Events*, 31 January 2022, p. 8. Our response to ElectraNet’s concern is set out in: AER, *Draft Decision, ElectraNet Transmission Determination 2023 to 2028, Attachment 13 Pass through events*, September 2022, p. 9.

<sup>30</sup> AER, *Final Guidance Note – Guidance Note on insurance coverage pass through event*, July 2021.

We have made amendments to Transgrid’s proposed insurance coverage definition<sup>31</sup> to clarify that:

- Transgrid will be deemed to have made a claim on a relevant insurance policy or set of insurance policies if the claim is made by a related party of Transgrid in relation to any aspect of Transgrid’s network or business
- Transgrid will be deemed to have been able to make a claim on a relevant insurance policy or set of insurance policies if, but for changed circumstances, the claim could have been made by a related party of Transgrid’s in relation to any aspect of Transgrid’s network or business.

We have applied the insurance coverage definition in this draft decision to other service providers in recent decisions.<sup>32</sup> We consider it is preferable to maintain a consistent definition across network businesses rather than update the definition with the adjustments proposed by Transgrid.

#### 13.4.2 Insurer’s credit risk event, natural disaster event and terrorism event

We accept Transgrid’s proposed definition of the insurer’s credit risk default event, natural disaster event and terrorism event as they are consistent with our recent determinations for transmission network service providers.<sup>33</sup> However, we have changed the name of the proposed ‘insurer’s credit risk default’ event to ‘insurer’s credit risk’ event to ensure consistency with our recent electricity transmission determinations.

#### 13.4.3 Summary of accepted nominated pass through events for draft decision

Table 13.2 summarises the nominated pass through events accepted by us in the draft decision.

**Table 13.2 AER’s draft decision nominated pass through events**

Proposed event	Proposed definition
Insurance coverage event	An insurance coverage event occurs if: <ol style="list-style-type: none"> <li>1. Transgrid:               <ol style="list-style-type: none"> <li>a) makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy or set of insurance policies; or</li> </ol> </li> </ol>

<sup>31</sup> Transgrid, *Revenue proposal 2023–28*, 31 January 2022, p. 159.

<sup>32</sup> AER, *Final decision, AusNet Services Distribution Determination 2021–26, Attachment 15 Pass through events*, April 2021, p.16–17; AER, *Draft Decision, Powerlink Queensland Transmission Determination 2022 to 2027, Attachment 12 Pass through events*, September 2021, p. 13; AER, *Final Decision, SA Power Networks distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 13–14; AER, *Final decision, Ergon Energy distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 9–10; AER, *Final decision, Energex distribution determination 2020–25, Attachment 14 – Pass through events*, June 2020, pp. 9–10.

<sup>33</sup> AER, *Draft Decision, Powerlink Queensland Transmission Determination 2022 to 2027, Attachment 12 Pass through events*, September 2021, pp. 13–14; AER, *Final Decision, AusNet Services Transmission Determination 2022 to 2027, Attachment 13 Pass through events*, June 2021, p. 11.

	<p>b) would have been able to make a claim or claims under a relevant insurance policy or set of insurance policies but for changed circumstances; and</p> <p>2. Transgrid incurs costs:</p> <p>a) beyond a relevant policy limit for that policy or set of insurance policies; or</p> <p>b) that are unrecoverable under that policy or set of insurance policies due to changed circumstances; and</p> <p>3. The costs referred to in paragraph 2 above materially increase the costs to Transgrid in providing prescribed transmission services.</p> <p>For the purpose of this insurance coverage event:</p> <p><i>'changed circumstances'</i> means movements in the relevant insurance market, including liability insurance, that are beyond the control of Transgrid, where those movements mean that it is no longer possible for Transgrid to take out an insurance policy or set of insurance policies at all or on reasonable commercial terms that include some or all of the costs referred to in paragraph 2 above within the scope of that insurance policy or set of insurance policies.</p> <p><i>'costs'</i> means the costs that would have been recovered under the insurance policy or set of insurance policies had:</p> <ul style="list-style-type: none"> <li>i. the limit not been exhausted; or</li> <li>ii. those costs not been unrecoverable due to changed circumstances.</li> </ul> <p>A relevant insurance policy or set of insurance policies is an insurance policy or set of insurance policies held during the regulatory control period or a previous regulatory control period in which Transgrid was regulated; and</p> <p>Transgrid will be deemed to have made a claim on a relevant insurance policy or set of insurance policies if the claim is made by a related party of Transgrid in relation to any aspect of Transgrid's network or business; and</p> <p>Transgrid will be deemed to have been able to make a claim on a relevant insurance policy or set of insurance policies if, but for changed circumstances, the claim could have been made by a related party of Transgrid in relation to any aspect of Transgrid's network or business.</p> <p>Note: For the avoidance of doubt, in assessing an insurance coverage event through application under rule 6A.7.3(j), the AER will have regard to:</p> <ul style="list-style-type: none"> <li>i. the relevant insurance policy or set of insurance policies for the event;</li> <li>ii. the level of insurance that an efficient and prudent NSP would obtain, or would have sought to obtain, in respect of the event;</li> <li>iii. any information provided by Transgrid to the AER about Transgrid's actions and processes; and</li> <li>iv. any guidance published by the AER on matters the AER will likely have regard to in assessing any insurance coverage event that occurs.</li> </ul>
<p>Insurer's credit risk event</p>	<p>An insurer's credit risk event occurs if an insurer of Transgrid becomes insolvent, and as a result, in respect of an existing or potential claim for a risk that was insured by the insolvent insurer, Transgrid:</p> <p>a) is subject to a higher or lower claim limit or a higher or lower deductible than would have otherwise applied under the insolvent insurer's policy; or</p> <p>b) incurs additional costs associated with funding an insurance claim, which would otherwise have been covered by the insolvent insurer.</p> <p>Note: In assessing an insurer credit risk event pass through application, the AER will have regard to, amongst other things:</p>

	<ul style="list-style-type: none"> <li>i. Transgrid’s attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer’s track record, size, credit rating and reputation; and</li> <li>ii. in the event that a claim would have been covered by the insolvent insurer’s policy, whether Transgrid had reasonable opportunity to insure the risk with a different provider.</li> </ul>
Natural disaster event	<p>Natural disaster event means any natural disaster including but not limited to cyclone, fire, flood or earthquake that occurs during the 2023–28 regulatory control period that changes the costs to Transgrid in providing prescribed transmission services, provided the cyclone, fire, flood, earthquake or other event was:</p> <ul style="list-style-type: none"> <li>a) a consequence of an act or omission that was necessary for the service provider to comply with a regulatory obligation or requirement or with an applicable regulatory instrument; or</li> <li>b) not a consequence of any other act or omission of the service provider.</li> </ul> <p>Note: In assessing a natural disaster event pass through application, the AER will have regard to, amongst other things:</p> <ul style="list-style-type: none"> <li>i. whether Transgrid has insurance against the event; and</li> <li>ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event</li> </ul>
Terrorism event	<p>Terrorism event means an act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which:</p> <p>from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear); and changes the costs to Transgrid in providing direct control services.</p> <p>Note: In assessing a terrorism event pass through application, the AER will have regard to, amongst other things:</p> <ul style="list-style-type: none"> <li>i. whether Transgrid has insurance against the event;</li> <li>ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and</li> <li>iii. whether a declaration has been made by a relevant government authority that a terrorism event has occurred.</li> </ul>

Source: AER analysis

## Glossary

Term	Definition
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
Capex	Capital expenditure
NEL	National Electricity Law
NER	National Electricity Rules
NSP	Network Service Provider
Opex	Operating expenditure

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