



**THE HON CHRIS BOWEN MP
MINISTER FOR CLIMATE CHANGE AND ENERGY**

MS23-001312

Ms Anna Collyer
Chair
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
SYDNEY NSW 2000

Anna.collyer@aemc.gov.au

Dear Ms Collyer *Anna*

Please find attached a rule change proposal to amend the National Electricity Rules to clarify expectations for Transmission Network Service Providers engaging communities and other stakeholders in the Regulatory Investment Test – Transmission for Integrated System Plan projects.

These necessary changes were recommended in the Australian Energy Market Commission's (AEMC) final report for Stage 2 of the Transmission Planning and Investment Review.

I endorse this rule change request and ask the AEMC progress with its initiation.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Bowen', written over a large, stylized blue scribble.

CHRIS BOWEN

Enc



Australian Government

**Department of Climate Change, Energy,
the Environment and Water**

Attachment F

Rule Change Request

Ensuring consistent stakeholder engagement for ISP projects

March 2023

1. Request to make a Rule

1.1. Name and address of the person making the request

The Honourable Chris Bowen MP
Minister for Climate Change and Energy
Parliament House
Canberra ACT 2600

2. Background

2.1. AEMC Transmission Planning and Investment Review

The AEMC's Transmission Planning and Investment Review (the Review) considers how to ensure the regulatory framework supports the timely and efficient delivery of major transmission projects, while ensuring investment in these projects are in the long-term interests of consumers.

Stage 2 of the review, which focused on near term solutions and reducing uncertainty for Transmission Network Service Providers (TNSPs), included recommendations to provide greater clarity around social licence activities in the Regulatory Investment Test for Transmission (RIT-T) for actionable and future Integrated System Plan (ISP) projects.

The Review recommended that the National Electricity Rules (NER) be amended to ensure that expectations on TNSPs to engage and consult communities and other affected stakeholders at key points in the planning process are consistent and clear for all ISP projects.

Following discussions between the Commonwealth and AEMC, the Commonwealth has agreed to submit a rule change request and associated draft rule to implement the AEMC's recommended social licence reforms.

The Commonwealth proposes the AEMC consider this rule change as having been adequately publicly consulted on through the Transmission Planning and Investment Review.

3. Statement of Issue

3.1. Improve social licence outcomes by clarifying expectations for TNSP engagement with communities and other stakeholders affected by ISP transmission projects

Social licence, for these purposes, refers to the activities undertaken by TNSPs¹ for the RIT-T to build and maintain broad community acceptance of the development and operation of major transmission projects. Obtaining and maintaining social licence is critical to the timely and efficient delivery of projects identified in the ISP.

This rule change request seeks to improve social licence outcomes by clarifying who TNSPs should consult and when. It also seeks to specify a set of minimum community engagement expectations in the National Electricity Rules (NER) with which TNSPs must comply.

Ineffective community engagement by TNSPs can result in failure to obtain a 'social licence', risking timely and efficient delivery of transmission projects. Effective engagement ensures issues around transmission route selection are identified and managed early before key decisions are made, and that

¹ Including the Australian Energy Market Operator - Victorian Planning
Social licence rule change request dcceeww.gov.au

more accurate costs are reflected in a RIT-T's cost assessment of an actionable ISP project. Currently, there are inconsistencies in the NER in relation to requirements for TNSPs to engage with local communities and other affected stakeholders at key points in the planning process for major transmission projects.

The Review acknowledged that:

- TNSPs, local communities and other stakeholders affected by major transmission projects are critical partners in the delivery of those projects.
- Building and maintaining trust between stakeholders is critical if TNSPs are to deliver projects efficiently and on time.

Local communities and other stakeholders include local councils, local community members and other relevant community stakeholders wishing to express their views about the development of a major transmission project identified through the ISP.

The Review also recognised that:

- The NER provides many opportunities for community stakeholders to engage in the planning and regulatory processes but does not explicitly recognise the value of early engagement with these stakeholders in the planning process for ISP projects, other than for Renewable Energy Zones (REZs).
- There is misalignment in and between the NER and the Australian Energy Regulator's (AER) various guidelines regarding whether and when TNSPs should engage with stakeholders.

4. Description of the proposed rule change

This is a request to amend the NER to implement recommendations in the Review's Stage 2 Final Report. The proposed amendments, which were prepared by the AEMC and accompanied the Stage 2 Final Report, are attached to this request (Attachment A).

The proposed amendments will:

- Expand the definition of 'preparatory activities' to include engagement and consultation with local councils, local community members, members of the public and any other relevant stakeholders wishing to express their views (proposed paragraph (e) in the definition of 'preparatory activities' in cl 5.10.2).
- Expand the definition of 'interested party' as it applies to the existing RIT-T consultation procedures for actionable ISP projects to include local councils, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of the project (proposed cl 5.15.1(b)).
- Require TNSPs to comply with a set of 'community engagement expectations' when preparing a RIT-T for an actionable ISP project and engaging with local communities and other stakeholders as part of preparatory activities for future and actionable ISP projects (proposed cl 5.10.2, cl 5.16A.4(r), 5.24.1(e)).
- Insert a definition of 'community engagement expectations' into the NER that is comparable to the existing expectations placed on jurisdictional planning bodies for REZs (proposed cl 5.10.2))

In addition to the changes proposed in the AEMC's stage 2 final report, the following amendments will also support more consistent community and stakeholder engagement:

- Expand the reference to ‘council and stakeholder engagement’ to include local council, local community members, members of the public and any other relevant stakeholders. This maintains consistency between the rules and the proposed new definition of ‘preparatory activities’ (proposed cl 5.24.1(d)(3)(c), 5.24.1(e)).
- Extending the new definition of interested party (proposed cl 5.15.1(b)) to the RIT-T dispute process (Cl 5.16B).

To ensure smooth implementation of these amendments, there will be transitional arrangements that:

- Allow a TNSP that has commenced preparatory activities for an actionable ISP project or future ISP project to choose whether the proposed social licence amendments to the definition of ‘preparatory activities’ apply to the project (proposed cl 11.[xxx].2.4)
- Allow a TNSP that has commenced community consultation for an actionable ISP project or future ISP project to choose whether the proposed social licence amendments to cl 5.16A.4 apply to the project (proposed cl 11.[xxx].2.5)

5. How the proposed rule change will address the issue

The proposed amendments are expected to improve TNSP and community engagement and give communities more confidence and trust in the consultation process through the following:

- Making clear the information a TNSP must provide communities and stakeholders
- Making clear the expectations for a TNSP’s engagement with communities and stakeholders
- Requiring TNSPs to better articulate the benefits and costs of ISP projects
- Improving the transparency of a TNSP’s engagement with communities and stakeholders
- Ensuring consistency between the NER and the AER’s various stakeholder engagement guidelines
- Ensuring TNSP community and stakeholder engagement is consistent for all actionable and future ISP projects.

Sections 6 and 7 give further detail.

6. How the proposed rule will or is likely to contribute to the achievement of the National Electricity Objective

The National Electricity Objective (NEO), set out in section 7 of the National Electricity Law, is:

“to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.”

The relevant aspect of the NEO is the promotion of efficient investment in electricity services for the long term interests of consumers of electricity with respect to price, quality, safety, reliability and security of the supply of electricity.

The proposed social licence amendments advance the NEO through supporting efficient and robust decision-making for all parties. Decision-making will be improved through the provision of clear guidance and increased transparency as to when engagement with local communities will occur, and who will be consulted.

Clear guidance on social licence activities in the NER will help to support the efficient and timely delivery of actionable and future ISP transmission projects. This will, alongside additional guidance from the AER, increase transparency for affected parties. An aim of the AER and NER's additional guidance is to reduce uncertainty for local communities and other affected stakeholders. Making TNSP social licence activities consistent for all ISP projects:

- Removes confusion around engagement for the TNSPs, the AER, communities, and other stakeholders
- Supports efficient decision-making by TNSPs
- Improves regulatory certainty.

7. Expected costs, benefits and impacts

7.1. Expected benefits

As noted in the Review, meaningful, early, high quality engagement with local communities and other stakeholders has several benefits including:

- Improves stakeholder and community understanding of the costs and risks of a major transmission project.
- Facilitates understanding of any community concerns, including around route selection by affected stakeholders, which can inform the identification and management of risk.
- Provides opportunities to identify and assess whether project options (including credible options for assessment in the RIT-T) are likely to be able to be delivered in time to meet the need, particularly where there are community concerns.
- Provides opportunities for the preferred option to be designed with the benefit of local community input.
- Provides TNSPs with opportunities to address or manage concerns raised and demonstrate to communities how it has taken their concerns and feedback into account.
- Community acceptance will help a TNSP deliver a project on time and within budget.

7.2. Expected costs

The proposed amendments are not expected to impose any significant new costs on TNSPs or consumers.

It is understood that many TNSPs are already engaging with local communities. The purpose of this rule change request is to ensure consistency in the nature, timing and comprehensiveness of this engagement. Any additional costs in engagement should be offset by improved timeliness of delivery of ISP projects.

7.3. Expected impacts

A TNSP's community engagement activities may be impacted by the expanded definitions of 'preparatory activities' and 'interested party'. Additionally, TNSPs will be impacted by needing to comply with a set of 'community engagement expectations' specified in the NER.

Local communities and other stakeholders affected by a major ISP transmission project will be positively impacted through better TNSP consultation.

The AER will have greater clarity for developing associated guidance and assessing the efficiency of a TNSP's costs for social licence activities.

Social Licence

...

5.10.2 Definitions

In this Part D and schedules 5.8, 5.9 and 5.4A:

...

preparatory activities means activities to design and to investigate the costs and benefits of *actionable ISP projects*, *future ISP projects* and REZ stages (as applicable), including:

- (a) detailed engineering design;
- (b) route selection and easement assessment work;
- (c) cost estimation based on engineering design and route selection;
- (d) preliminary assessment of environmental and planning approvals; and
- (e) ~~council and stakeholder engagement,~~

~~which are undertaken prior to the identification of the preferred option for the relevant project or stage.~~

- (e) engagement with local council, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of the *actionable ISP project*, *future ISP project*, or project within a REZ stage, in accordance with the *community engagement expectations*.

...

community engagement expectations means ensuring that:

- (a) stakeholders receive information that is clear, accurate, relevant and timely;
- (b) stakeholders have sufficient opportunity to consider and respond to the information provided;
- (c) consultation materials and methods of communication tailored to the needs of different stakeholders are used; and
- (d) the stakeholders' role in the engagement process is clearly explained to them, including how their input will be taken into account.

...

10. Glossary

...

community engagement expectations

Has the meaning given to it in clause 5.10.2.

...

5.15.1 Interested parties

- (a) In clauses 5.16.4, 5.16A.4, rule 5.16B and clauses 5.17.4 and 5.17.5, *interested party* means a person including an end user or its representative who, in the AER's opinion, has the potential to suffer a material and adverse NEM impact from the investment identified as the preferred option in the project assessment conclusions report or the final project assessment report (as the case may be).
- (b) For the purpose of the regulatory investment test for transmission for an actionable ISP project, an interested party includes a local council, local community member, member of the public and any other relevant stakeholder wishing to express their views about the development of the actionable ISP project.

5.16A.4 Regulatory investment test for transmission procedures

Project assessment draft report

- (a) If a *Transmission Network Service Provider* is identified as a *RIT-T proponent* in an *Integrated System Plan* for an *actionable ISP project*, then that *Transmission Network Service Provider* is the *RIT-T proponent* for that *RIT-T project* and must apply the *regulatory investment test* for transmission to, and consult all *Registered Participants*, *AEMO* and *interested parties* on, that *RIT-T project* in accordance with this clause 5.16A.4.
- ...
- (c) The *RIT-T proponent* must prepare a report in accordance with paragraphs (d) to (h) (*project assessment draft report*) and publish it by the date specified in the *Integrated System Plan* for that *RIT-T project* or such longer time period as is agreed in writing by the *AER* and make that report available to all *Registered Participants*, *AEMO* and *interested parties*.
- ...
- (f) The *RIT-T proponent* must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the proposed *preferred option* presented, and the issues addressed, in the *project assessment draft report*.
- ...
- (h) Within 4 weeks after the end of the consultation period required under paragraph (g), at the request of an *interested party*, a *Registered Participant* or *AEMO* (each being a relevant party for the purposes of this paragraph), the *RIT-T proponent* must meet with the relevant party if a meeting is requested by two or more relevant parties and may meet with a relevant party if after having considered all submissions, the *RIT-T proponent*, acting reasonably, considers that the meeting is necessary.

Project assessment conclusions report

- (i) As soon as practicable after the end of the consultation period on the *project assessment draft report* referred to in paragraph (g), the *RIT-T proponent* must, having regard to the submissions received, if any, under paragraph (f) and the

matters discussed at any meetings held, if any, under paragraph (h), prepare and make available to all *Registered Participants*, *AEMO* and *interested parties* and *publish* a report (the *project assessment conclusions report*).

...

Consultation with communities

(r) To the extent that consultations under paragraphs (a) and (f) include engagement with *interested parties* as defined in clause 5.15.1(b), that engagement must be undertaken in accordance with the *community engagement expectations*.

5.22.6 Content of Integrated System Plan

...

Preparatory activities

- (c) An *Integrated System Plan* may specify whether preparatory activities must be carried out for *future ISP projects* and the timeframes for carrying out preparatory activities.
- (d) A *Transmission Network Service Provider* must:
 - (1) in the case of an *actionable ISP project* for which preparatory activities have not yet commenced, commence preparatory activities as soon as practicable; and
 - (2) in the case of a *future ISP project*, if the *Integrated System Plan* provides that preparatory activities must be undertaken for that project, commence preparatory activities in accordance with the timeframes specified in the *Integrated System Plan* for that project, provided that where preparatory activities are required to be undertaken pursuant to clause 5.24.1(b)(2), a *jurisdictional planning body* must ensure that preparatory activities are commenced in accordance with the timeframes described in subparagraph (1) or (2) (as applicable).

5.24.1 REZ design reports

- (d) Subject to paragraph (e), in preparing a *REZ design report*, the relevant *jurisdictional planning body* must:
 - (1) ensure that a public consultation is conducted with the following stakeholders:
 - (A) interested parties wishing to register their interest in developing on or more projects in the REZ; and
 - (B) local council, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of projects within the REZ; and
 - (2) prepare a draft of the *REZ design report* and, over a period of no less than six weeks; invite the stakeholders described at subparagraph (1) to make written submission on the draft *REZ design report*;
 - (3) take into account the following, a summary of which must be included

in the *REZ design report*:

- (A) the results of the public consultation undertaken in accordance with subparagraph (1);
 - (B) any written submissions received under subparagraph (2);
 - (C) the results of any ~~council and stakeholder~~ engagement with local council, local community members, members of the public and any other relevant stakeholders undertaken as part of preparatory activities pursuant to paragraph (b)(2)(i);
- (e) In undertaking any public consultation pursuant to paragraph (d)(1), seeking written submissions in accordance with paragraph (d)(2) and undertaking ~~the council and stakeholder~~ engagement with local council, local community members, members of the public and any other relevant stakeholders as part of preparatory activities pursuant to paragraph (b)(2)(i), the *jurisdictional planning body* must ~~ensure that: do so in accordance with the community engagement expectations.~~
- (1) ~~stakeholders receive information that is clear, accurate, relevant and timely;~~
 - (2) ~~stakeholders have sufficient opportunity to consider and respond to the information provided;~~
 - (3) ~~targeted consultation materials, and methods of communication tailored to the needs of different stakeholders, are used; and~~
 - (4) ~~stakeholders' role in the engagement process is clearly explained to them, including how their input will be taken into account~~

4 Transitional provisions

11.[xxx].1.1 Definitions

For the purposes of this Part [XX]:

Amending Rule means the National Electricity Amendment ([TPIR Stage 2]) Rule.

commencement date means the date on which the Amending Rule commences operation.

11.[xxx].2.2 Existing actionable ISP projects prior to the clause 5.16A.5 stage

- (a) This clause 11.[xxx].2 applies if, at the commencement date, for an existing *actionable ISP project* the *RIT-T proponent* has requested written confirmation from *AEMO* under clause 5.16A.5(b).
- (b) For an existing *actionable ISP project* referred to in clause 11.xxx.2.2(a),

rule

5.16A continues to apply as if the Amending Rule had not been made.

11.[xxx].2.3 Cost Benefit Analysis Guidelines

- (a) Within 12 months after the commencement date, the AER must update and publish on its website the Cost Benefit Analysis Guidelines required under clause 5.22.5 to comply with the requirements set out in clause 5.16A.2(c)(4), and in doing so must comply with the Rules consultation procedures.
- (b) If, prior to the commencement date, and for the purposes of updating the Cost Benefit Analysis Guidelines in anticipation of the Amending Rule, the AER undertook consultation or steps equivalent to that as required in the Rules consultation procedures, then that consultation or steps undertaken is taken to satisfy the equivalent consultation or steps under the Rules consultation procedures.

11.[xxx].2.4 Preparatory activities

- (a) This clause 11.[xxx].2.4 applies if, at the commencement date, for an existing actionable ISP project or a future ISP project, the Transmission Network Service Provider has commenced the preparatory activities referred to in clause 5.22.6(d).
- (b) For an existing actionable ISP project or future ISP project referred to in clause 11.xxx.2.4(a), the definition of preparatory activities continues to apply as if the Amending Rule had not been made, unless the Transmission Network Service Provider elects for the Amending Rule to apply.

11.[xxx].2.5 Community engagement expectations

- (a) This clause 11.[xxx].2.5 applies if, at the commencement date, for an existing actionable ISP project the Transmission Network Service Provider has commenced the consultation referred to in clauses 5.16A.4(a) and (f).
- (b) For an existing actionable ISP project referred to in clause 11.xxx.2.5(a), clauses 5.16A.4(a) and (f) continue to apply as if the Amending Rule had not been made, unless the Transmission Network Service Provider elects for the Amending Rule to apply.
- (c) If the Transmission Network Service Provider makes this election then it must confirm this in the project assessment draft report or project assessment conclusions report as relevant.