

# TRANSMISSION PLANNING AND INVESTMENT REVIEW

PUBLIC FORUM – CONTESTABILITY  
OPTIONS PAPER

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26 JULY 2022

AEMC

# Agenda

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1.	Introduction and welcome	Alisa Toomey, Acting Director & Project Sponsor
2.	Opening remarks	Anna Collyer, AEMC Chair
3.	Overview of the Transmission Planning and Investment Review	Rupert Doney, Senior Adviser & Project Lead
4.	Options paper- key areas of feedback	Rupert Doney
5.	Approach to the Contestability workstream	Claire Rozyn, Farrierswier
6.	Strawperson models of contestability	Richard Owens, Farrierswier
7.	Assessment framework and trade-offs	Claire Rozyn
8.	Consideration when thinking about projects suitable to competitive delivery	Claire Rozyn
9.	Q&A	Alisa Toomey
10.	Next steps	Alisa Toomey

# ACKNOWLEDGEMENT OF COUNTRY



# INTRODUCTION AND WELCOME

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**Alisa Toomey – A/Director Transmission and  
Distribution Networks**

## Overview of today

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AEMC staff will provide an update on the delivery of the Review and its key stages



AEMC staff will provide an overview of the Options Paper for the contestability workstream of the Review



Forum participants are invited to ask questions

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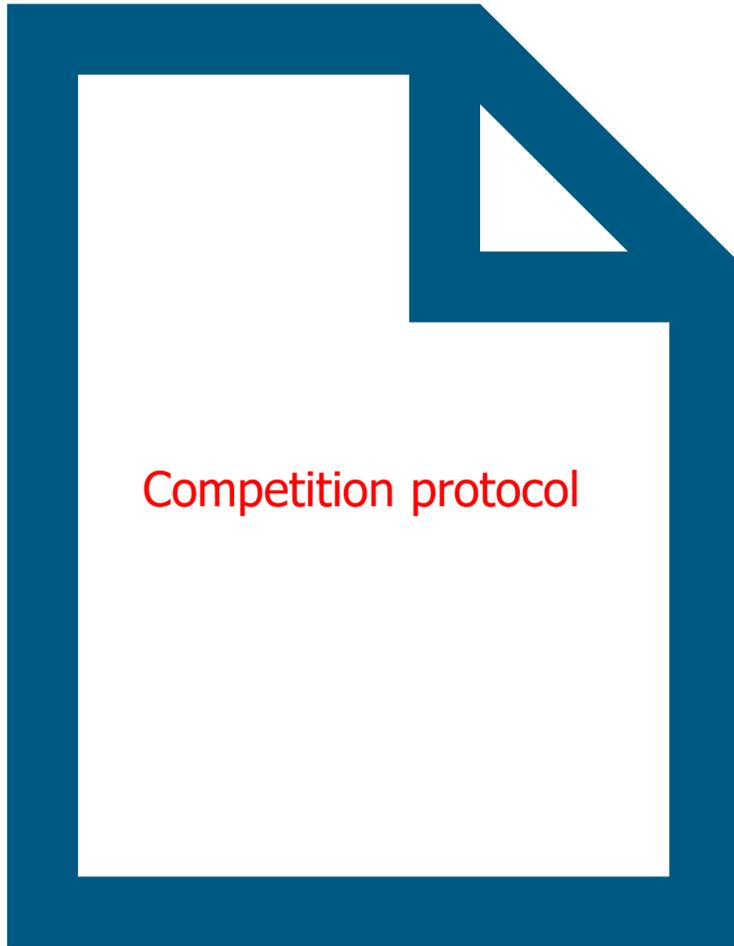
## Housekeeping

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- All participants are currently in 'listen-only' mode
  - Moderators can switch your mic/video on if you specifically request it.
- Asking questions
  - Use the Q&A button on the bottom of your screen
  - Questions will be answered at a dedicated Q&A session
  - We will try to answer all questions, but will prioritise questions with most 'upvotes' first
- Presentations from today will be posted on our website after the webinar, along with a recording of the forum

## Before we start, an important notice: Compliance with Competition Law

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Each entity must make an independent and unilateral decision about their commercial positions.

# OPENING REMARKS



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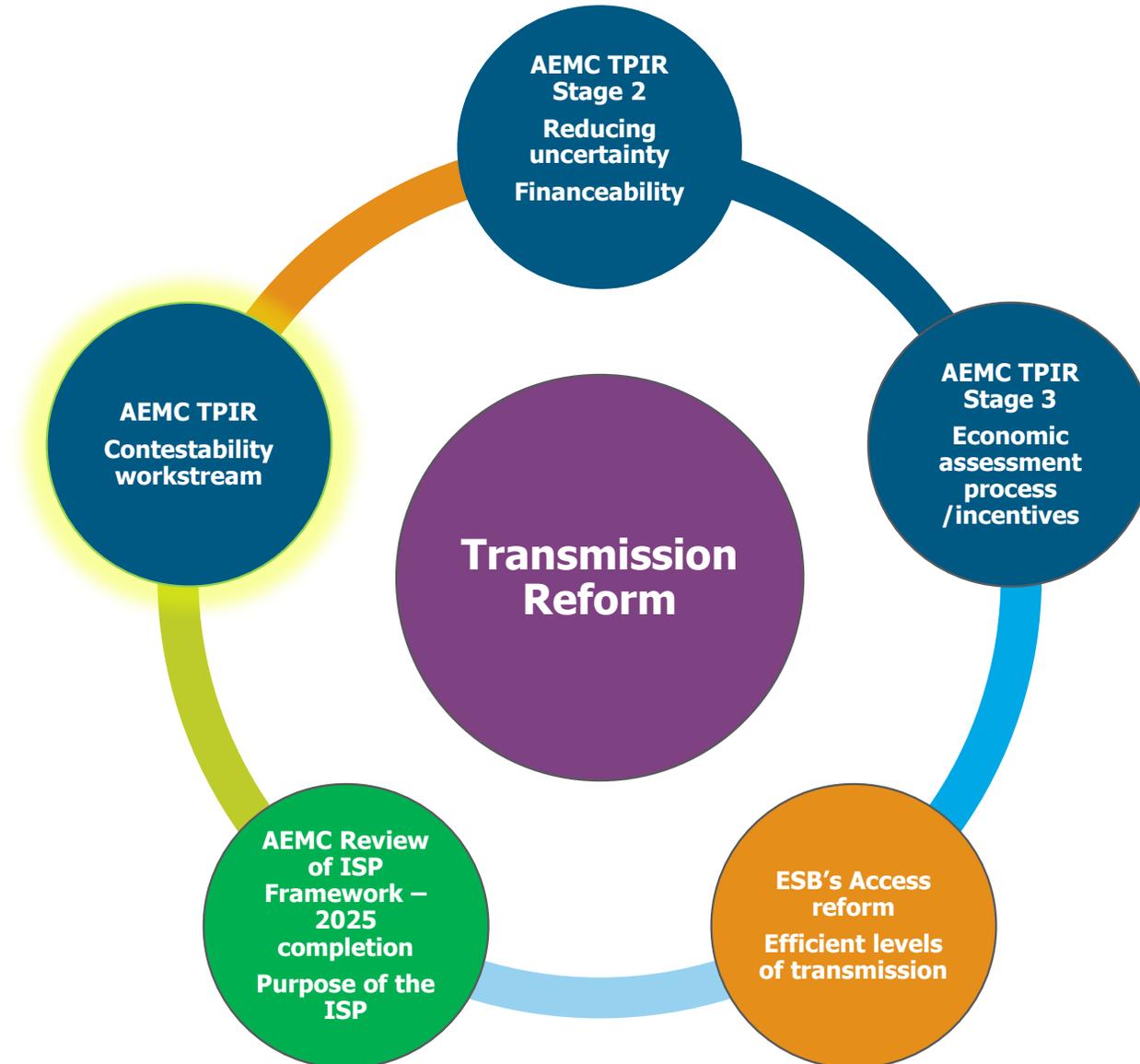
**Anna Collyer – AEMC Chair**

# OVERVIEW OF THE REVIEW

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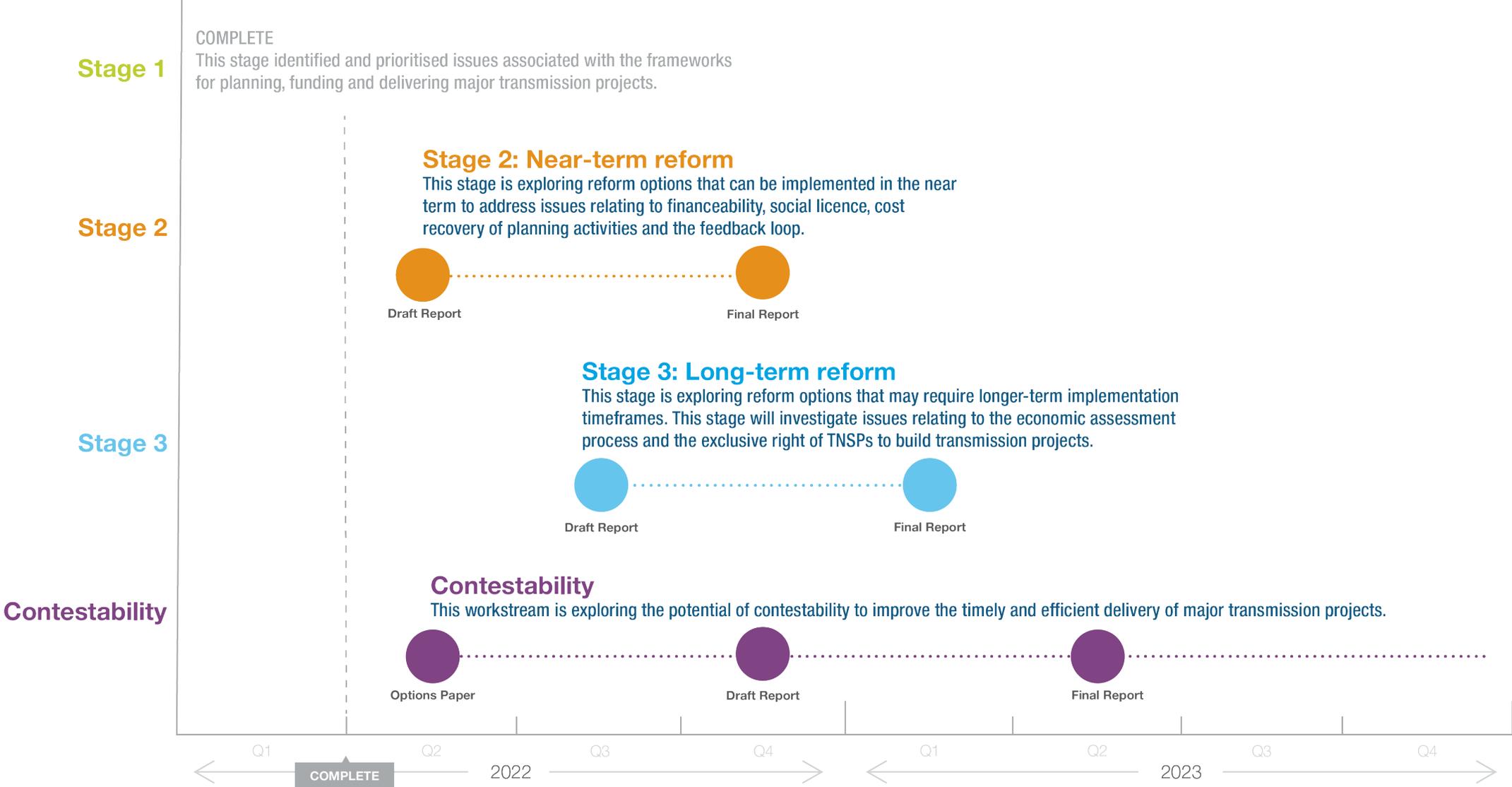
**Rupert Doney – Senior Adviser**

The contestability options paper is part of a larger body of work to support the efficient use of transmission infrastructure and the timely and efficient delivery of major projects



# A different approach has been taken to this Review with work being delivered in stages

## Timeline to progress the Review



# CONTESTABILITY OPTIONS PAPER – KEY AREAS FOR FEEDBACK

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**Rupert Doney – Senior Adviser**

## An options paper for the contestability workstream was published on 14 July

The options paper sets out our approach to contestability and seeks feedback on several matters including possible workable contestability models, our proposed assessment criteria, and key considerations for thinking about which projects may be suitable to competitive delivery

1. The paper explains that we will take a **two-part approach** to the contestability workstream, and the reasons why

2. The paper sets out a spectrum of **four contestability straw people**, so that we can narrow these down to one or two, or a hybrid, to take through our initial high-level assessment later this year

3. The paper sets out our proposed **assessment framework** for this workstream, so that we can refine and weight the assessment criteria

4. The paper sets out some of the key considerations for thinking about how to **identify suitable projects** for contestable delivery

- Submissions are due on 18 August 2022
- The purpose of this forum is to outline the contents of the paper so that it is clear for stakeholders as they prepare their submissions

# OUR APPROACH TO THE CONTESTABILITY WORKSTREAM



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**Claire Rozyn – Senior Consultant,  
Farrierswier**

# We will undertake a two-part approach to the contestability workstream

## Part 1 Contestability workstream of the Review

Deliver recommendations on:

- whether arrangements to support increased contestability in the provision of major transmission projects should be explored in detail as a proportionate alternative to provision by primary TNSPs under the current ex-ante incentive based regulatory framework, and
- which broad model of contestability is likely to deliver net benefits to consumers relative to other models considered and the counterfactual - that is, which broad model is the preferred model of contestability

## Part 2 New contestability implementation review

- If the final report for the contestability workstream concludes that it is likely to be beneficial to explore contestability in detail, the AEMC will commence a new piece of work in mid-2023 to design and assess the commercial and regulatory model in detail
- Where appropriate, the AEMC will also commence work to develop the law and rule changes needed to implement it



# We will undertake a two-part approach to the contestability workstream

## Different views from stakeholders on costs and benefits, and on case for change

- Desire to **broaden the scope** of workstream to capture the full range of benefits potentially available from increased contestability
- Views on the costs and benefits vary widely and are provided with reference to a **variety of potential contestability models**
- General view that the potential benefits and costs associated with increased contestability require **further investigation**
- Some jurisdictions consider that there is merit in contestable frameworks and have already adopted them for certain major transmission projects

## Benefit in doing some additional work with stakeholders to gather a greater fact base

- As a first step, we will work closely with stakeholders to identify a **common starting point** for discussion, and to gather a **greater fact base** regarding the potential costs and benefits of introducing increased contestability
- Help to **structure future discussions** with stakeholders regarding the costs and benefits to inform our future analysis and subsequent decisions regarding this potential reform

## Counterfactual and interaction with stage 3 (and 2) are key

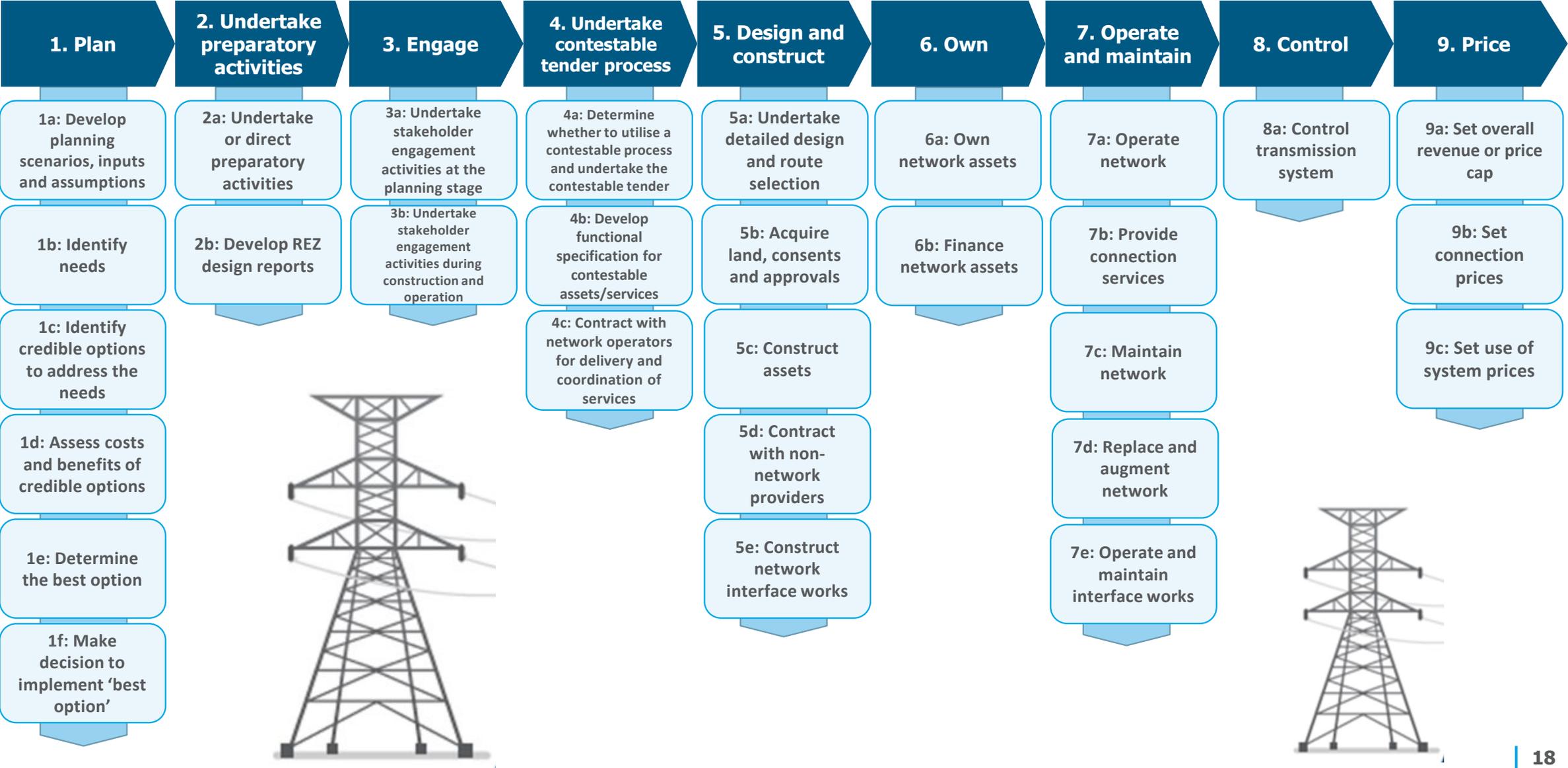
- The current **counterfactual** is based on the national arrangements under the NER, adjusted to incorporate the draft Stage 2 recommendations e.g. Financeability, Social licence, Cost recovery for planning activities, Feedback loop
- **Additional adjustments expected** to incorporate draft Stage 3 recommendations e.g. Ex-ante incentive framework, Economic assessment process
- Stage 3 outcomes particularly relevant to thinking on whether there is a case for introducing increased contestability

# STRAWPERSON MODELS OF CONTESTABILITY

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**Richard Owens – Director, Farrierswier**

# We are seeking feedback on the key functions and activities associated project planning and delivery



# We are seeking feedback on our strawperson models of contestable delivery

**Counterfactual** | Current transmission planning and investment arrangements under NEL and NER (excluding VIC)

Plan	Preparatory activities	Engage	Design and construct	Own	Operate and maintain	Control	Price
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**Strawman 1** | Contestability for construction and ownership - Based on various precedents including key features of the NER arrangements for **Designated Network Assets and Identified User Shared Assets**, but with a jurisdictional body and the PTNSP having shared responsibility for planning, engagement and preparatory activities

Plan	Preparatory activities	Engage	Design and construct	Own	Operate and maintain	Control	Price
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**Strawman 2** | Contestability for the delivery of solutions identified through the ISP or RIT-T process plus a jurisdictional body having increased responsibility for planning, engagement and preparatory activities - Based on key features of the current NSW Electricity Infrastructure Act (EII Act) model for REZs and elements of the role of VicGrid in Victoria

Plan	Preparatory activities	Engage	Design and construct	Own	Operate and maintain	Control	Price
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**Strawman 3** | Contestability for the delivery of solutions identified through the ISP or RIT-T process - Based on key features of current Victorian transmission contestability arrangements

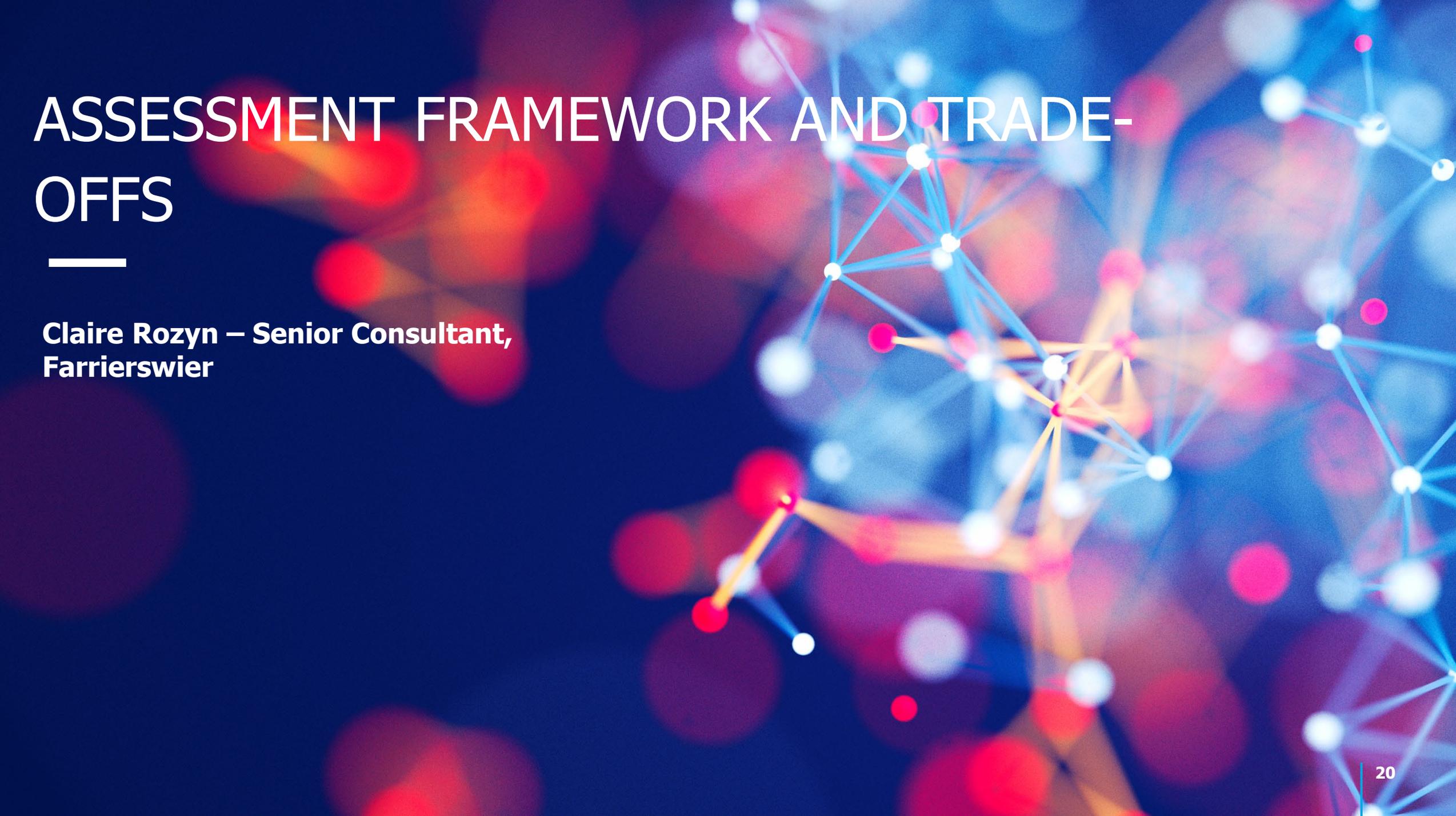
Plan	Preparatory activities	Engage	Design and construct	Own	Operate and maintain	Control	Price
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**Strawman 4** | Competition for the development and delivery of solutions to meet a need identified in the ISP process - Based on early competition model proposed by Ofgem for onshore electricity transmission networks, the sponsor-based model in the HoustonKemp report for the AER and several current US electricity transmission contestability models

Plan	Preparatory activities	Engage	Design and construct	Own	Operate and maintain	Control	Price
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No competition (undertaken by PTNSP or government body) | Some scope for competitive provision | Competitively provided

# ASSESSMENT FRAMEWORK AND TRADE-OFFS



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**Claire Rozyn – Senior Consultant,  
Farrierswier**

# We are seeking feedback on our assessment framework

- In considering potential changes to the regulatory framework supporting the planning and delivery of major transmission projects in the NEM, we will consider whether a particular change is likely to promote the **national electricity objective (NEO)**
- To guide this assessment, we will have regard to a set of **assessment criteria**
- The assessment criteria are broadly consistent with the assessment framework for the broader Review with two minor adjustments to emphasise the issues likely to be most relevant to the contestability workstream:
  - We refer to “timeliness” as the criterion that covers “outcomes for consumers”
  - We have included an additional criterion related to “accountability and transparency”

## ASSESSMENT CRITERIA

**Timeliness**

**Efficiency**

**Flexibility**

**Accountability**

**Implementation**

**Decarbonisation**

CRITERIA	EXPLANATION
<b>Timeliness</b>	<ul style="list-style-type: none"> <li>• Do the arrangements promote and appropriately balance <b>the timely and efficient delivery of major transmission projects</b> (eg delivery at the optimal time identified in the ISP and avoiding delays that are likely to reduce the net benefits of the project for consumers)?</li> <li>• Do the arrangements risk creating additional <b>complexity and coordination challenges</b> and, if so, are there appropriate mechanisms in place to manage those risks and avoid inefficient delays?</li> </ul>
<b>Efficiency</b>	<ul style="list-style-type: none"> <li>• Do the arrangements promote efficient investment in, and use of, electricity services in the long term interests of consumers with regard to:                             <ul style="list-style-type: none"> <li>– <b>Cost</b> – incentivising productive efficiency so that regulated revenues for transmission services reflect the efficient costs of providing the services</li> <li>– <b>Innovation</b> – enabling and incentivising innovative solutions and delivery methods that can reduce costs and/or increase benefits, including non-network alternatives</li> <li>– <b>Risk allocation</b> – allocating risks to the parties who are best placed to manage them and have the incentives to do so efficiently</li> <li>– <b>Incentives</b> – providing effective incentives for all parties involved in the transmission planning and investment process to make efficient decisions</li> </ul> </li> <li>– <b>Materiality of benefits</b> – focusing on those functions and types of projects where the benefits of competition are likely to be the most material</li> <li>– <b>Wholesale market outcomes</b> – facilitating efficient generation investment, connection process and wholesale market competition</li> </ul>
<b>Flexibility</b>	<ul style="list-style-type: none"> <li>• Are the arrangements consistent with the <b>long term direction of energy market reform</b>?</li> <li>• Are the arrangements flexible enough to <b>accommodate uncertainty</b> regarding future technological, policy and other changes?</li> <li>• Do the arrangements <b>facilitate consistency between jurisdictions</b>, including accommodating existing jurisdictional differences where appropriate?</li> <li>• Do the arrangements promote <b>clear accountability for security, reliability and safety</b> of the operation of the transmission system?</li> <li>• Do the arrangements promote <b>clear allocation of responsibilities</b> for each stage of the planning and investment process, with responsibility for each stage assigned to the entity who is best placed to perform it effectively?</li> </ul>
<b>Accountability and transparency</b>	<ul style="list-style-type: none"> <li>• Is there clear <b>overall accountability for the transmission system</b> in each region, including clear responsibility and coordination on related matters such as pricing and connections?</li> <li>• Do the arrangements facilitate effective <b>consumer and local community engagement and appropriate transparency</b> in the planning and investment processes?</li> <li>• Are the arrangements <b>clear and predictable</b>?</li> </ul>
<b>Implementation</b>	<ul style="list-style-type: none"> <li>• What are the expected <b>costs of implementing</b> the changes and compliance costs?</li> <li>• How <b>complex</b> will changes be to implement? Is implementation dependent on agreement to changes to legislation or jurisdictional instruments?</li> <li>• How long will implementation take and what does that mean for the <b>timeframe to realise the benefits</b>?</li> </ul>
<b>Decarbonisation</b>	<ul style="list-style-type: none"> <li>• Will the arrangements enable decarbonisation of the energy market?</li> <li>• How will the arrangements impact the pace of decarbonisation of the energy market?</li> </ul>

## We are seeking feedback on how to approach the key trade-offs

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- Throughout the course of this workstream, the Commission may need to exercise its judgement in relation to trade-offs between several of these criteria. For example, between:
  - **timeliness vs efficiency:** arrangements that support the timely delivery of major transmission projects versus opportunities to capture the fullest range of potential economic efficiencies associated with competitive provision of these project
  - **efficiency vs accountability:** arrangements that capture the potential economic efficiency benefits of contestability versus ensuring clear accountability for security, reliability, safety and managing social licence.
  - **implementation vs flexibility:** developing clear and predictable regulatory frameworks that are, nevertheless, capable of adjusting to changing market circumstances
  - **efficiency vs implementation:** the more complex the reforms, the more time will be required to implement them and the greater the risk they will not be able to apply to major projects in the 2022 or 2024 ISPs.



# CONSIDERATIONS WHEN THINKING ABOUT PROJECTS SUITABLE FOR CONTESTABLE DELIVERY

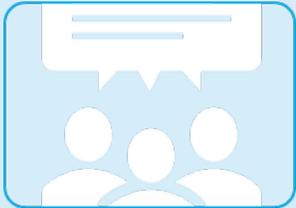


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**Claire Rozyn – Senior Consultant,  
Farrierswier**

# We are seeking feedback on key considerations related to project suitability

- Not all major transmission projects will be suitable to competitive delivery.
- Further, once a project has been identified as suitable to competitive provision, it is not necessarily the case that a competitive tender process will always be feasible or likely to attract sufficient competition to deliver benefits
- We will undertake further work to determine the following:



- The **subset of major transmission projects** that are likely to be suitable to contestable delivery (and the subset better left to delivery by the relevant primary TNSP under the current arrangements)
- As part of this work, the AEMC will provide a more detailed description of what constitutes a 'major transmission project' for the purposes of this workstream



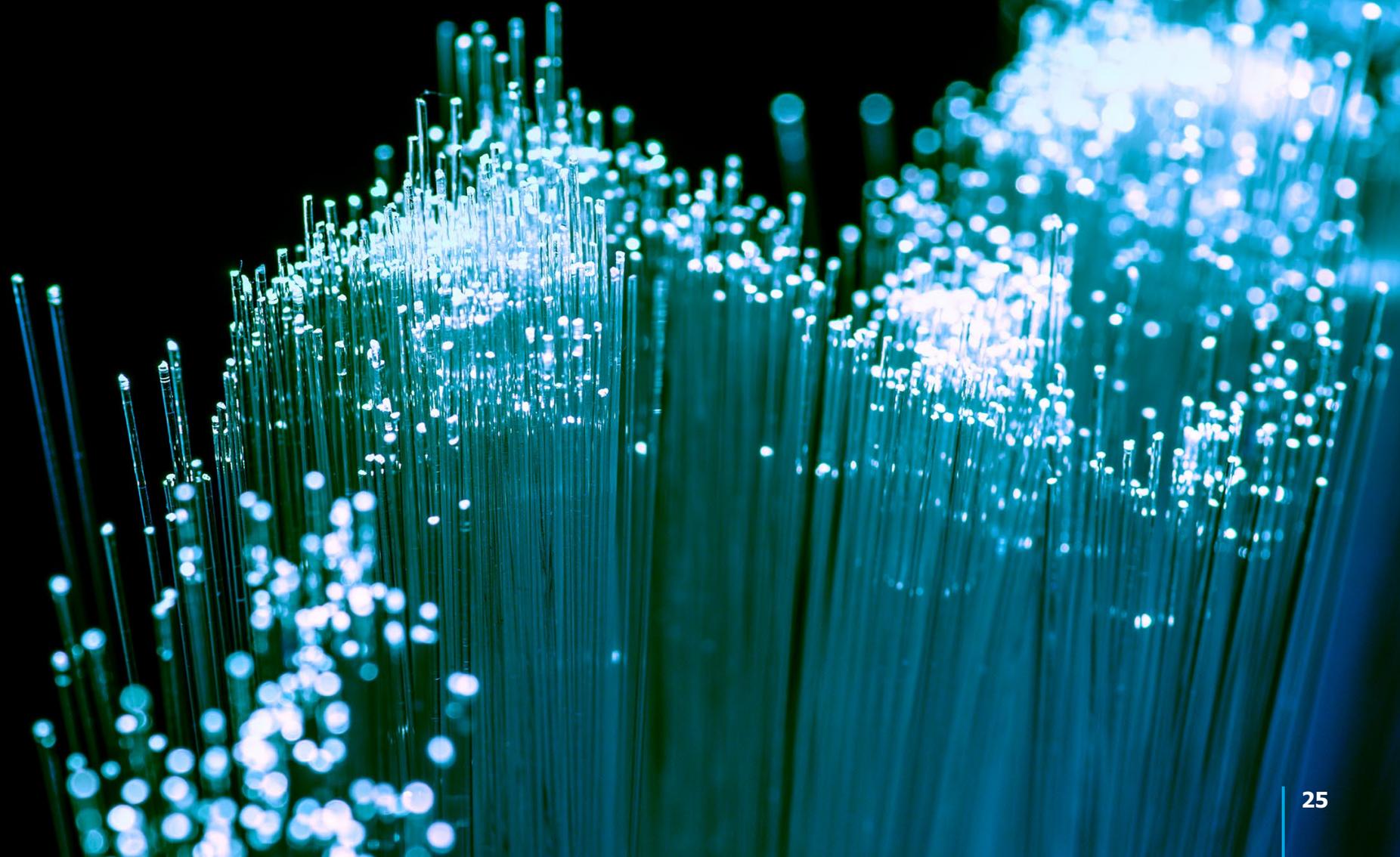
- The **approach to how and when a major transmission project would be identified as being suitable** to competitive provision
- Options range from the development of prescriptive criteria applied to all (or a subset of) major transmission projects, to a fully flexible approach which provides full discretion to an appropriate body to decide which major transmission projects should be considered for competitive provision



- The **approach to how and when the subsequent decision on whether to proceed with a contestable procurement process would be made** for a major transmission project identified as suitable for contestable provision

# QUESTIONS?

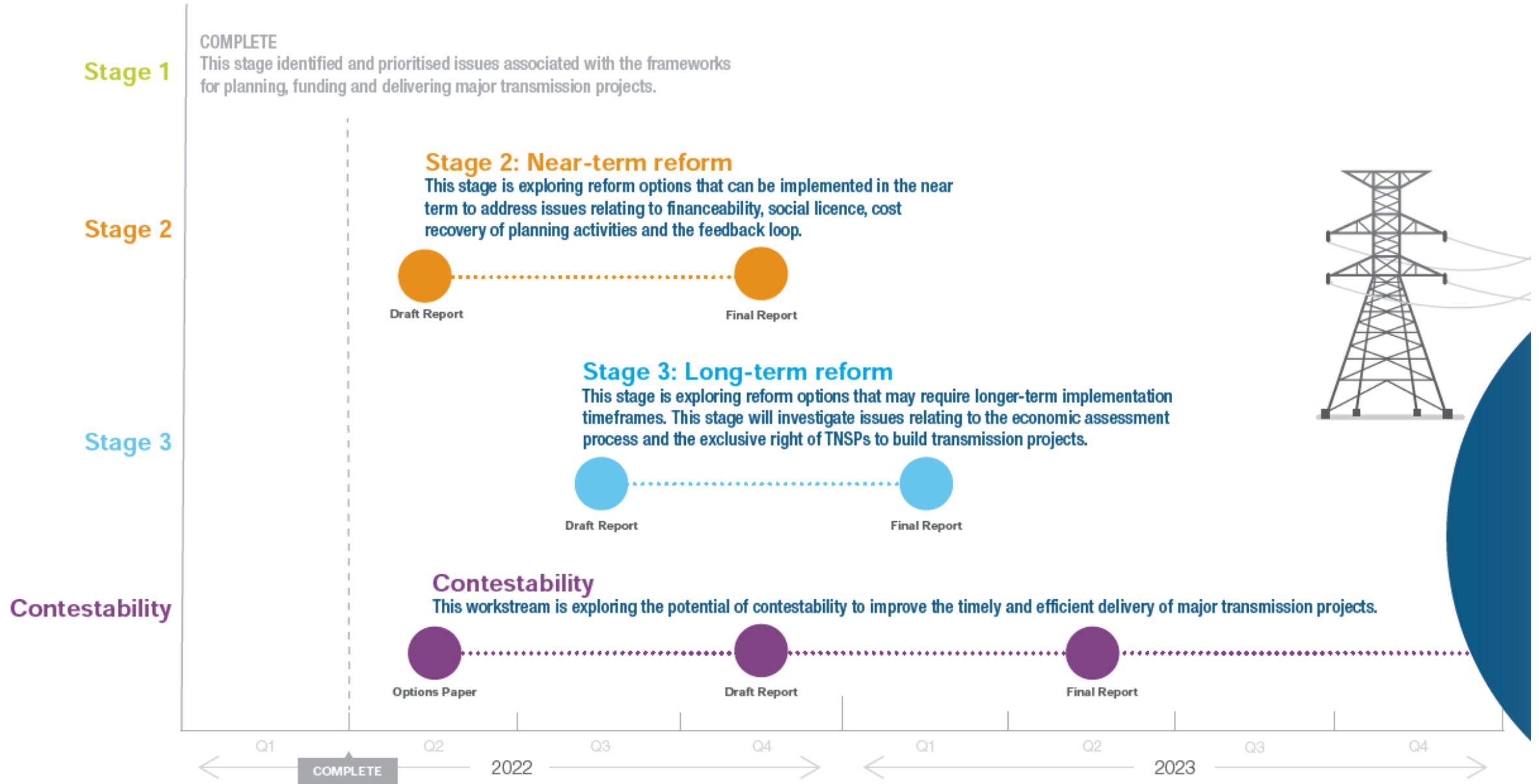
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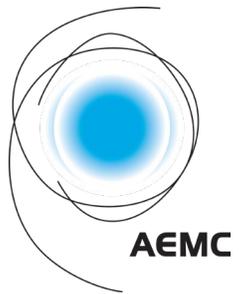


# CLOSE AND NEXT STEPS

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# Timeline to progress the Review





**Office address**

Level 15, 60 Castlereagh Street  
Sydney NSW 2000

ABN: 49 236 270 144

**Postal address**

GPO Box 2603  
Sydney NSW 2001

**T** (02) 8296 7800

# APPENDIX



## Counterfactual: Current transmission planning and investment arrangements under NEL and NER (excluding VIC)



- The counterfactual is based on the **current regulatory framework under the NEL and NER** - in particular, the power system security responsibilities under Chapter 4, the network planning arrangements in Chapter 5 and the economic regulation arrangements in Chapter 6A of the NER. It does not include the contestable transmission arrangements that apply in Victoria, which are instead addressed in option 3.
- The NEL and NER do not expressly provide that the primary TNSP (PTNSP) has the exclusive right to implement major transmission projects in its region. There are several examples of major transmission projects undertaken by a person other than the PTNSP, such as BassLink, MurrayLink, DirectLink and the proposed CopperString 2.0 project. However, there is currently no regulatory process to facilitate the contestable procurement of transmission projects, and the proponent of a contestable project would face considerable regulatory uncertainty. Once the PTNSP has completed the RIT-T process and obtained funding for the project through its AER revenue determination or a contingent project application, the PTNSP effectively has an exclusive right to undertake the project and recover regulated revenue for it.
- Detailed design, construction and debt financing are currently contestably procured by the PTNSP in practice, but there is no regulatory requirement to do so and no regulatory oversight of the procurement process.

# Strawman 1: Competition for construction and ownership

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- Based on various precedents including key features of the NER arrangements for **Designated Network Assets** and **Identified User Shared Assets**, but with a jurisdictional body and the PTNSP having shared responsibility for planning, engagement and early works
- This option involves competition for construction and ownership of major transmission projects. It is a model of late competition where bidders compete for the right to construct and own the assets that are required to deliver a solution that is identified and selected through the current planning process. This option does not involve contestability for operation, maintenance or control of the assets once they are constructed, with those functions performed by the PTNSP.
- The current ISP and RIT-T arrangements continue to apply in this option. However, to create a more level playing field between the PTNSP and other contestable bidders, this option modifies the current planning process so that a jurisdictional body (eg a body like EnergyCo or VicGrid) and the PTNSP share responsibility for planning, engagement and early works. The jurisdictional body would have a discretion whether to adopt a competitive procurement process or have the project delivered by the PTNSP under the current non-contestable arrangements.
- The main objective of this option would be to increase efficiency and reduce costs related to the detailed design, construction and financing of major transmission projects.
- This option could apply in every NEM jurisdiction, or it could apply on an opt-in basis where each jurisdictional government would determine whether it applies in their jurisdiction.

## Strawman 2: Competition for delivery of solutions identified through the ISP or RIT-T process plus jurisdictional body having increased responsibility for planning, engagement and early works



- This option is based on our current understanding of key features of the current **NSW Electricity Infrastructure Act (EII Act)** model for REZs and elements of the role of **VicGrid in Victoria**
- This option involves competition for the delivery of the solution that is identified and selected through the ISP and RIT-T. It is a model of late competition where the bidders compete for the right to construct, own, operate and maintain a major transmission project that is identified through the planning process. Bidders would be responding to a reasonably detailed specification of the solution (which could include network assets and/or non-network solutions) that is developed through the planning process including the current ISP and RIT-T processes.
- In order to create a level playing field between the PTNSP and other contestable bidders, a jurisdictional body would have overall responsibility for planning, engagement and early works rather than the PTNSP. As in option 1, the jurisdictional body would have the discretion to adopt a competitive procurement process or have the project delivered by the PTNSP under the current non-contestable arrangements.
- The main objective of this option is to increase efficiency and reduce costs related to the detailed design, construction, financing, ownership, operation and maintenance of major transmission projects. It could also potentially reduce delays in the delivery of those projects, subject to how long the contestable procurement process takes.
- This option could apply in every NEM jurisdiction, or it could apply on an opt-in basis.

## Strawman 3: Competition for the delivery of solutions identified through the ISP or RIT-T process



- This option is based on key features of current **Victorian transmission contestability arrangements**
- This option involves competition for the delivery of the solution that is identified and selected by AEMO through the ISP and RIT-T. Similar to option 2, it is a model of late competition where the bidders compete for the right to construct, own, operate and maintain a major transmission project that is identified through the planning process. Bidders would be responding to a reasonably detailed specification of the solution that is developed through the planning process including the current ISP and RIT-T processes.
- While similar to option 2, this option is based on AEMO's current declared network functions in an adoptive jurisdiction under the NEL and NER, ie the current arrangements in Victoria. Under these declared network functions, AEMO would have a significant role in the planning process and would undertake competitive tenders, rather than a separate jurisdictional body performing those functions as in option 2. Compared with the counterfactual and options 1 and 2, AEMO would also have an increased role in operation, control, connection services and pricing.
- This option would apply on an opt-in basis by jurisdiction. Any jurisdiction could elect to apply this model by becoming an adoptive jurisdiction for AEMO's declared network functions under the current arrangements in the NEL.
- The objectives of this option are similar to option 2, ie to increase efficiency and reduce costs related to the detailed design, construction, financing, ownership, operation and maintenance of major transmission projects.

## Strawman 4: Competition for the development and delivery of solutions to meet a need identified in the ISP process



- Based on key features of the **early competition model proposed by Ofgem** for onshore electricity transmission networks, the **sponsor-based model in the HoustonKemp** report for the AER and **several US electricity transmission contestability models**.
- This option involves competition for the development and delivery of solutions to meet a need that is identified through the ISP process. It is a model of early competition where the bidders compete for the right to develop, design, construct, own, operate, maintain and control a solution that meets a need that is identified through the planning process.
- The main difference from the counterfactual and all other options is that bidders would be responding to an identified need that is described at a high level rather than a reasonably detailed specification of a selected solution to that identified need. This approach would allow bidders to propose markedly different solutions to meet that identified need. This would require significant changes to the current planning process, including the ISP and RIT-T.
- This option aims to encourage competition, innovation and increased efficiency in the identification and design of solutions, including potentially increased use of non-network solutions. It would also aim to increase efficiency and reduce costs related to design, construction, financing, ownership, operation, maintenance and control.