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Chair
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2001
Submitted electronically

via email: www.aemc.gov.au
Reference: EPR0087

Dear Anna

Re: Transmission Planning and Investment Review – Stage 3, draft report

Marinus Link Pty Ltd (MLPL) welcomes the opportunity to make this submission in relation to the Commission's draft report on Stage 3 of the Transmission Planning and Investment Review.

MLPL supports the purpose of Stage 3 of the Commission's review, which is to identify aspects of the regulatory framework where there are opportunities to improve the existing arrangements to promote efficient and timely investment in major transmission projects. As noted in the Commission's draft report, the potential benefits to customers of improving the current arrangements are significant, as major transmission projects are required urgently to enable the decarbonisation of the Australian economy.

As explained in the draft report, the potential benefits of accelerating the delivery of major projects need to be weighed against the potential loss of rigour in the investment decision-making process. MLPL supports the Commission's approach in examining this trade-off in assessing whether changes should be made to the transmission planning and investment arrangements.

As a general observation, MLPL's view is that the current level of rigour in identifying the optimal project should be safeguarded. Specifically, while it is appropriate to promote timely investment by streamlining the ISP, RIT-T, feedback loop and CPA processes, this objective should not be pursued at the expense of rigour. In taking this position, MLPL recognises that affordability is a central concern for electricity customers and the negative impact on affordability of a sub-optimal investment decision should be avoided.

With this high-level observation in mind, we comment on each of the following four topics that are discussed in the draft report:

- Facilitating the timely delivery of major transmission projects;
- The regulatory treatment of concessional finance;
- Providing incentives to encourage TNSPs to make timely investment decisions; and
- Managing major project risks and uncertainty through risk allowances and staging.

We comment on each of these topics in turn.

1. Facilitating the timely delivery of major transmission projects

The draft report sets out the following options to promote the timely delivery of major transmission projects:

- **Strawperson 1 – Front loading early works**

  Under this option, the current investment and planning process would remain largely unchanged, apart from 'early works' which would commence sooner. Following a project being deemed actionable in the ISP, the TNSP would submit an early works CPA to seek an allowance for undertaking the efficient level of early works activities. The RIT-T would be conducted concurrently with early works. The Commission estimates that the potential time savings under this option would be in the order of 12 months, +/-50%.

- **Strawperson 2 – Net benefit assessment is confined to AEMO's ISP**

  Under this option the net benefit assessment is confined to AEMO's ISP, with consequential changes to the purpose of the RIT-T as TNSPs would no longer be required to evaluate net benefits. Instead, the relevant TNSP would be responsible for developing credible options to meet the identified need as specified in the ISP. The RIT-T preferred option would be defined as the option that meets the identified need at the lowest cost to consumers. The Commission estimates that the potential time savings under this option would be approximately 12 months, +/-50%.

- **Strawperson 3 –AEMO's ISP to centralise the cost-benefit analysis**

  This option involves the most significant change as the role of AEMO's ISP would be extended to include the identification of the preferred option. Under this option, therefore, the RIT-T process and feedback loop would no longer apply to actionable ISP projects. The Commission estimates that the potential time savings under this option would be in the order of 2 years, +/-50%.

In examining the three options presented by the Commission, MLPL supports option 1 in preference to options 2 and 3.

Specifically, in relation to strawperson 1, MLPL agrees with the Commission that there are potential benefits in providing TNSPs with funding to undertake an efficient level of early works concurrently with the RIT-T process.

In particular, MLPL agrees with the Commission's view that this approach could improve the timeliness of project delivery by bringing forward engagement with affected communities and investigation of environmental and other approvals requirements before the preferred option is selected. Furthermore, bringing forward some 'early works' activities may help to de-risk later stages of the project.

From a cost recovery perspective, MLPL notes that it will be important to provide some flexibility regarding the activities that may be remunerated before the completion of the RIT-T, so that TNSPs are empowered to take action that is in customers' best interest. For example, while land acquisition and procurement will typically occur after the RIT-T is completed, in some cases it may be better to bring forward some activities. In MLPL's view, it will be important for the Commission to consider how best to provide flexibility in the cost recovery arrangements.

In contrast to strawperson 1, the other two options presented by the Commission are likely to reduce the rigour of the investment assessment process. Specifically, MLPL considers that requiring TNSPs to undertake the RIT-T is likely to result in better investment decisions. As noted earlier, MLPL's view is that affordability will be promoted by making effective use of the TNSPs' local expertise.

2. The regulatory treatment of concessional finance

The Commission's draft report highlights the potential for concessional finance to support timely investment in transmission infrastructure, particularly given the Federal Government's Rewiring the Nation fund. The Commission explains that the Rules do not contemplate the availability of concessional finance and, therefore, additional guidance will be beneficial in clarifying its treatment.

MLPL agrees with the Commission's view that the regulatory framework should be amended to give effect to the intended purpose of the concessional finance, as defined by the provider of the finance. MLPL also supports the Commission's view that the TNSP will be best placed to provide the required information about the concessional finance arrangement to the AER.

The draft report also suggests that the regulatory framework could provide the AER with discretion in deciding where the intended benefit of the finance should be shared between customers and the TNSP. MLPL's view is that it would be preferable for a requirement to be imposed on the TNSP to provide the AER with information regarding the intentions of the provider of concessional finance. This approach ensures that this issue is addressed by the provider of the concessional finance and avoids the need to develop guidelines for the AER to exercise its discretion in determining how the value should be shared.

3. Providing incentives to encourage TNSPs to make timely investment decisions

The Commission's draft report explains that:

- the TNSPs' exclusive right with no corresponding obligation to invest imposes a risk that strategic projects may not proceed in a timely manner and the benefits to customers may not be realised; and
- an incentive mechanism may be a proportionate response to incentivise TNSPs to plan, make investment decisions and deliver projects, in a timely manner, in accordance with the timing of benefits identified to consumers in the planning of major transmission projects.

In considering the case for an incentive mechanism, the Commission comments that:[1]

> "At present, consumers bear all the consequences of late project delivery, even though TNSPs have more control over the timely delivery of projects."

While MLPL agrees with the Commission that consumers bear the consequences of late project delivery, TNSPs are keenly interested in delivering major transmission projects on time. Furthermore, project delays may arise for reasons that are beyond the TNSPs' control, which would make it difficult for TNSPs to respond to an incentive mechanism.

More generally, MLPL considers it important not to over-emphasise the need to provide financial incentives to align the interests of TNSPs and customers. MLPL's view is that while incentives play an important role in driving better customer outcomes, it does not follow that TNSPs are only motivated by financial incentives. In fact, TNSPs have a strong interest in meeting customers' needs, building social licence and acting in accordance with customers' long term interests.

While MLPL notes that Ofgem has adopted an incentive mechanism to encourage timely project delivery, we are not convinced that such an incentive is required in Australia. For example, MLPL is working hard to deliver Marinus Link as soon as practicable, just as other TNSPs are focused on delivering their major projects. For each of these projects, each TNSP will be balancing the benefit of delivering projects on time

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[1] AEMC. Draft Report, Transmission Planning and Investment Review – Stage 3, 21 September 2022, page 85.

with the need to manage project costs and risks. In our view, TNSPs do not need a financial incentive to weigh these competing objectives.

4. Managing major project cost risk and uncertainty through risk allowances and staging

The Commission's draft report has identified two incremental changes to the regulatory framework to ensure that the costs of major projects are managed effectively:

- A separate, targeted ex-post review process by the AER that examines expenditure associated with specific ISP projects.
- Staging of the CPA process for large transmission projects.

We discuss each of these points in turn.

Ex-post review

In relation to the ex-post review, the Commission notes that it may be appropriate to consider applying the ex-post review in a manner that allows for a more targeted application for ISP projects. For example, the ex-post review could separately, in a proportionate manner, consider only the expenditure associated with a specific ISP project.

MLPL strongly supports regulatory arrangements that encourage the efficient and timely delivery of ISP projects. In this regard, it is important to note that ISP projects have a number of characteristics that set them apart from TNSPs' 'standard' capital expenditure for which the ex-post review was originally designed. In particular, ISP projects are:

- identified independently by AEMO and, therefore, are not subject to the same risk of 'gold plating' as other capital expenditure projects;
- increasingly subject to better stakeholder engagement, which should reinforce the financial incentives to deliver these projects in a timely and efficient manner;
- tend to be more exposed to the risk of cost overruns as a result of factors that are beyond the TNSPs' control, such as securing social licence and obtaining planning consents; and
- are urgently required in order to deliver substantial value to customers, as Australia transitions to a net zero carbon economy.

MLPL's view is that these characteristics are relevant in considering the case for applying an ex-post review and designing its application to ISP projects. For Marinus Link, there are a number of other specific factors that point to the need for a flexible approach to the application of the ex post review:

- MLPL is a single project TNSP, where the potential risk of a cost overrun cannot be offset by savings in other capital projects;
- As a new TNSP, the regulatory framework and incentive arrangements that will apply to MLPL for the first regulatory period have not yet been settled; and
- The application of an ex-post review may provide inappropriately strong incentives on MLPL to adopt fixed price contracts with service providers, in preference to taking on additional risk on behalf of customers.

Given the unique circumstances applying to MLPL, our view is that the Commission should provide flexibility in the Rules regarding the application of the ex-post review to MLPL and, potentially, to other ISP projects. In exercising its discretion regarding the application of the ex-post review, the AER should consider whether an ex-post review is likely to promote the National Electricity Objective having regard to the particular circumstances of the TNSP and the ISP project. MLPL considers that allowing a flexible approach will be superior to the mandatory application of the ex-post review to all ISP projects as it provides for a more tailored regulatory approach.

Staging of the CPA process

The Commission explains that the AER's Guidance Note proposes that staging CPAs occurs in two stages: the first for project design and planning activities, and the second for delivery of the project. However, the Commission comments that there may be particular projects that warrant separating the CPA process into additional stages to allow greater flexibility for TNSPs to respond to changes in both costs and benefits.

MLPL agrees with the Commission that there may be benefits in allowing additional CPA staging. MLPL considers this to be a relatively minor change that could be accommodated without a Rule change.

We very much look forward to working with the Commission as it progresses this important review. If you would like to discuss this submission, please contact me at heath.dillon@marinuslink.com.au.

Yours sincerely

Heath Dillon
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