

Australian Energy Market Commission

RULE DETERMINATION

NATIONAL ELECTRICITY AMENDMENT (ENHANCING COMMUNITY ENGAGEMENT IN TRANSMISSION BUILDING) RULE

The Honourable Chris Bowen, Minister for Climate Change and Energy

09 NOVEMBER 2023

DETERMINATION

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

ACKNOWLEDGEMENT OF COUNTRY

The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

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SUMMARY

- 1 The Commission has made a more preferable final rule to enhance community engagement for major transmission projects. This is in response to the rule change request submitted by the Hon. Chris Bowen, Minister for Climate Change and Energy.
- 2 The more preferable final rule, referred to as the final rule, clarifies that TNSPs are required to engage with communities earlier when planning for major transmission projects. Our final rule also introduces a set of community engagement expectations that TNSPs must satisfy when engaging with communities.
- 3 Our final rule applies to projects in AEMO's integrated system plan (ISP) up until the regulatory investment test for transmission (RIT-T) is completed. Other frameworks and rules apply to an ISP project once it has completed a RIT-T and to all other non-ISP projects. Our rule does not conflict with obligations under these other frameworks and complements broader work undertaken by other entities to enhance community engagement under these frameworks.
- 4 Our final rules supports TNSPs building and maintaining social licence, and will improve the quality of information available to TNSPs to support better planning for transmission projects. Social licence is critical to the timely delivery of transmission infrastructure that is required for the transition to net zero. Our final rule will benefit consumers by supporting the timely delivery of the transmission needed to connect cheaper renewable generation to consumers.
- 5 Our final rule represents no material changes from our draft rule. Compared to the draft rule, we have made several minor wording changes based on stakeholder feedback to the draft determination.
- 6 The rule change request seeks to implement recommendations made as part of the social licence workstream in our *Transmission planning and investment review* (TPIR).
- 7 The rule change request has been fast tracked reflecting the extensive consultation carried out on these issues in TPIR.
- 8 The rule will commence on 5 December 2023.

Our final rule supports TNSPs to build social licence for transmission

- 9 Our final rule addresses current uncertainty and inconsistency, in the national electricity rules (NER), over TNSPs' obligations and expectations to engage with local communities, early in the planning process. Specifically, the final rule clarifies TNSPs' obligations to engage with communities when planning for ISP projects and REZ stages from the development of the ISP, through the joint planning process, to the completion of the regulatory investment test for transmission (RIT-T).
- 10 Increased certainty and consistency in the NER around TNSPs' early engagement with communities leads to better outcomes through supporting more proactive and constructive relationships with local communities. This improves TNSPs' planning by helping TNSPs

identify local concerns that, when addressed earlier, may improve the timely delivery of transmission infrastructure.

11 The final rule supports TNSPs to seek cost recovery for enhanced community engagement, which will likely improve the quality of community engagement.

12 The final rule helps build social licence for transmission and is part of a reform package to improve the timely delivery of major transmission. This complements work being undertaken by other entities, such as by the Australian Energy Infrastructure Commissioner, TNSPs, and the Commonwealth, to improve social licence building for transmission.

There is broad stakeholder support for our rule with their feedback helping us to improve our final rule

13 Stakeholders broadly agree that TNSPs should engage with communities earlier and better during the transmission planning process. This is consistent with stakeholder feedback on the Transmission planning and investment review (TPIR).

14 We consider the principles based approach in the draft rule is appropriate, with stakeholders broadly agreeing that the draft rule appropriately captured all stakeholders that TNSPs should engage early. We added local environmental groups to those community stakeholders explicitly mentioned in the rules, based on stakeholder feedback. Stakeholders also supported the broad community engagement expectations as minimum standard of practice under the draft rule.

15 Given broad stakeholder support for the draft rule, our final rule includes only minor changes from the draft rule to improve accessibility for stakeholders and to further clarify the stakeholders that should be engaged.

We assessed our final rule against four assessment criteria using regulatory impact analysis and stakeholder feedback

16 The Commission has considered the national electricity objective (NEO) and the issues raised in the rule change request and assessed the final rule against the four assessment criteria outlined below. We reviewed stakeholder feedback and undertook a regulatory impact analysis in relation to these criteria.

17 The final rule would contribute to achieving the NEO by:

- **Improving outcomes for consumers** - by helping lower energy prices, through supporting the timely delivery of transmission infrastructure required to connect cheaper renewable generation and firming to replace ageing thermal generation.
- **Contributing to emissions reduction** - by supporting the timely delivery of the transmission infrastructure required to increase renewable penetration in the energy system, reducing greenhouse gas emissions and assisting in the transition of the grid to net zero.

- **Promoting principles of good regulatory practice** - by improving predictability, stability and transparency with the regulatory framework and aligning with other reform underway.
- **Providing timely market wide implementation** - by introducing timely reform, that is relatively simple to implement across jurisdictions and can be applied to the next tranche of major transmission projects.

18 There is one change from the assessment criteria proposed in the draft determination. Emissions reduction has replaced the criterion of decarbonisation. This is in line with the changes to the NEO on 21 September 2023.

19 The final rule better contributes to the NEO, than the proposed rule, because it further enhances engagement with local communities and provides greater transparency of engagement obligations. This increases the likelihood that projects are delivered on time which would result in better outcomes for consumers and more timely emissions reduction.

20 We consider that our final rule will not impose any material costs on consumers, TNSPs, or any other market participant.

The final rule will improve clarity and consistency in engagement with local communities

21 Our final rule:

- clarifies that TNSPs are required to engage with stakeholders who, as part of preparatory activities, are reasonably expected to be affected by the development of the actionable ISP project, future ISP project, or project within a REZ stage. This includes local landowners, local council, local community members, local environmental groups and traditional owners.
- clarifies that these stakeholders are considered interested parties in respect of the RIT-T. This means that TNSPs are required to consult with stakeholders who are reasonably expected to be affected by the development of the actionable ISP project during the RIT-T. This includes local landowners, local council, local community members, local environmental groups and traditional owners. These stakeholders may be considered a disputing party where appropriate.
- introduces community engagement expectations which TNSPs are required to make reasonable endeavours to satisfy when engaging with these local stakeholders.

Transitional rules will help implement our final rule

22 Transitional rules are included in the final determination to:

- provide the AER with 13 months to update and publish its cost benefit analysis (CBA) guideline and allow prior consultation in anticipation of the amending rule to satisfy the consultation requirements to update the guideline.

- allow TNSPs to choose to apply the community engagement requirements under the final rule, if they have already commenced community consultation or preparatory activities for an actionable ISP project.

Key differences between draft rule and final rule

23

We have made the following changes from the draft rule to:

- reference local environmental groups as a specific group that TNSPs are required to engage with as part of preparatory activities, and during the RIT-T for an actionable ISP project,
- broaden the definition of traditional owners to include affected lands and waters on or near the area of the project,
- extend the requirement to undertake preparatory activities to AEMO in Victoria, consistent with the intention in the draft determination,
- make minor wording changes to the community engagement expectations to improve accessibility for stakeholders, and
- extend the time provided for the AER to make any updates to their CBA guidelines by one month.

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1 THE COMMISSION HAS MADE A FINAL DETERMINATION

This final determination is to make a more preferable final rule in response to a rule change request submitted by The Honourable Chris Bowen, Minister for Climate Change and Energy.¹ The rule change request is about supporting transmission network service providers (TNSPs) to build social licence for transmission by requiring TNSPs to enhance community engagement for integrated system plan (ISP) projects and renewable energy zone (REZ) stages.² The more preferable rule is referred to as 'the final rule' in this determination.

1.1 Our final rule will improve community acceptance of major transmission projects by clarifying how TNSPs should engage with communities earlier

The final rule clarifies that TNSPs are required to engage with a broad range of community stakeholders, earlier in the transmission planning process, and introduces community engagement expectations for ISP projects. Specifically, the final rule clarifies TNSPs' obligations to engage with communities when undertaking planning for ISP projects and REZ stages, from the development of the ISP, through the joint planning process, to the completion of the regulatory investment test for transmission (RIT-T).

Earlier engagement with communities in accordance with a set of community engagement expectations:

- helps foster relationships with communities and improves social licence building for major transmission, and
- improves information inputs for planning which supports TNSPs to make efficient and robust decisions.

Improved social licence building and planning help ensure major transmission is delivered on time so consumers do not pay the significant costs of delays.

The final rule supports TNSPs to seek cost recovery for enhanced community engagement, which will likely improve the quality of community engagement. We do not expect these costs to be material relative to the total cost of the project. The AER noted, in its directions paper on social licence, that it considers it appropriate to recover the costs of social licence engagement activities.³ Our rule change further supports cost recovery for other social licence activities as the AER notes that good engagement is an important foundation for establishing the case for expenditure.⁴

Our final rule clarifies TNSPs' community engagement obligations by:

¹ See appendix A.2 for information on the rule change request.

² References to REZ stages or REZ design reports refer to REZ projects that are progressed under Rule 5.24 of the NER.

³ AER, Directions paper - Social licence for electricity transmission projects, 23 October 2023, p. 18.

⁴ Ibid, p. 1.

- expanding the definition of “preparatory activities” to explicitly include stakeholders who are reasonably expected to be affected by the development of the actionable ISP project, future ISP project, or project within a REZ stage (including local landowners, local council, local community members, local environmental groups and traditional owners),⁵
- expanding the definition of “interested party” as it applies to the RIT-T consultation procedures for actionable ISP projects to include stakeholders who are reasonably expected to be affected by the development of the actionable ISP project (including local landowners, local council, local community members, local environmental groups and traditional owners),⁶ and
- specifying community engagement expectations that outline how TNSPs would engage with communities during the planning process for both ISP and REZ stages.⁷

1.1.1

Our final rule represents minor changes from the draft rule

We have made the following changes from the draft rule to:

- reference local environmental groups as a specific group that TNSPs are required to engage with as part of preparatory activities and during the RIT-T. See Table 3.1 for more detail.
- broaden the definition of traditional owners to include affected lands and waters on or near the area of the project. See Table 3.1 for more detail.
- extend the requirement to undertake preparatory activities to AEMO in Victoria, consistent with the intention in the draft determination.
- make minor wording changes to the community engagement expectations to improve accessibility for stakeholders. See Table 3.2 for more detail.
- extend the time provided for the AER to make any updates to their CBA guidelines by one month. See section 3.4.1 for more detail.

1.2

There is broad stakeholder support for our rule with feedback helping us to improve our final determination

In submissions to our draft determination, stakeholders broadly agree that TNSPs should engage with communities earlier and more effectively during the transmission planning process.⁸ This is consistent with stakeholder feedback on the Transmission planning and investment review (TPIR).⁹

Our final rule and final determination ensure that obligations and expectations around community engagement are clear for all major transmission projects in the ISP, and increase transparency and consistency around when and how engagement with local communities must occur.

⁵ Paragraph (e) under the definition of preparatory activities under clause 5.10.2 of the final rule.

⁶ Clause 5.15.1(b) of the final rule.

⁷ See community engagement expectations definition under clause 5.10.2 of the final rule.

⁸ Submissions to the draft determination: CEIG, p. 3; EUAA, p. 4; National Farmers Federation, Re- alliance, p. 1, Solar Citizens, p. 3; Victorian Farmers Federation, p. 1, AEMO, pp. 2-3, AER, p. 1, PIAC, p. 1; Grain Growers, p. 1; ENA, p. 2 & Powerlink, p. 1.

⁹ Appendix A.1 discusses feedback on TPIR in more detail.

Most stakeholders broadly agree that our rule creates more clarity, transparency and consistency, and takes a step towards improving community engagement.¹⁰ However, some stakeholders suggested more substantive alternative approaches to improve community engagement.¹¹

We consider the principles based approach in the draft rule is appropriate as stakeholders broadly agreed that the draft rule appropriately captured all stakeholders that TNSPs should engage early, and supported the broad community engagement expectations as a minimum standard of practice. Most stakeholders did not comment explicitly on the level of prescription and flexibility the final rule should provide. There were some mixed views from those stakeholders who expressed views in their submissions. TNSPs considered that it is appropriate for the final rule to be broad and principles based and provide TNSPs some flexibility to undertake community engagement,¹² while some stakeholders identified areas where greater prescription may be beneficial.¹³

Given broad stakeholder support for the draft rule, our final rule includes only minor changes from the draft rule to improve accessibility for stakeholders and to clarify further the stakeholders that should be consulted with. These changes are discussed in section 1.1.1. Our final rule also provides TNSPs with the flexibility to apply the rule in accordance with the unique nature of each project.

In making our final determination, we assess the regulatory impact of the proposed changes. Our final rule will not impose any material costs on consumers, TNSPs, or other market participants.¹⁴ We do not consider that there would be significant costs in implementing our final rule.¹⁵ However, we do consider that there are significant benefits to making our final rule.

1.3 Our determination complements broader social licence reform ensuring timely delivery of major transmission and other energy infrastructure

This rule change focuses on enhancing community engagement specifically for ISP projects from the development of the ISP to the completion of the RIT-T to help ensure the timely delivery of transmission. This follows recommendations made in the TPIR social licence workstream.¹⁶

The Commission recognises that social licence concerns are not limited to ISP projects and that the timely delivery of transmission is not solely dependent on good community engagement. The Commission also acknowledges broader issues that have been raised by

10 Submissions to the draft determination: CEIG, p. 3; EUAA, p. 4; National Farmers Federation, Re- Alliance, p. 1, Solar Citizens, p. 3; Victorian Farmers Federation, p. 1, AEMO, pp. 2-3; Grain Growers, p. 1; AER, p. 1, ENA; p. 2 & Powerlink, p. 1.

11 Submissions to the draft determination: PIAC, p. 2 & Central NSW Joint Organisation, pp. 4-5.

12 Submissions to the draft determination: ENA, p. 3; AusNet, p. 2; TasNetworks, p. 2; Powerlink, p. 2 & Transgrid, p. 4.

13 Submissions to the draft determination: Central NSW Joint Organisation, p. 5. & Victorian Farmers Federation, p. 3.

14 See appendix B for an overview of our regulatory impact analysis.

15 Chapter 3 discusses our final rule in more detail.

16 AEMC, Transmission planning and invest review: Stage 2 final report, 27 October 2022, pp. 20-33.

stakeholders throughout the rule change process. For example, stakeholders considered that there should be greater regional coordination between entities when planning for major energy infrastructure.¹⁷

This rule change is part of a broad set of reforms to support the timely and efficient delivery of major transmission projects and provide a foundation for expected future reforms recommended in TPIR. The final rule also complements broader social licence reform being pursued by the Commission and other workstreams undertaken by other entities across the NEM to support the timely delivery of major transmission and other renewable energy infrastructure. We encourage stakeholders to engage with these workstreams.

Other complementary work includes:

- The AEIC led *Community engagement review* which seeks to develop solutions to enhance community support for all renewable energy infrastructure, including major transmission projects. A discussion paper was published on 4 September 2023.¹⁸ We have made a submission to this review. Our submission suggested that the review focus on creating consistency across infrastructure projects, streamlining engagement processes and facilitating information between stakeholders to support better social licence building for all renewable energy infrastructure.
- The national energy transformation partnership has commenced work on developing national best practice guidelines for community engagement.¹⁹ This work will establish best practice approaches that create a consistent standard of community engagement across transmission projects. This is consistent with our final determination to create consistency across engagement for ISP projects.²⁰
- The AER's social licence directions paper clarifies how the AER considers social licence issues can best be addressed under the current regulatory framework governing transmission investments. The AER may release subsequent publications to reflect the outcomes of the *Community engagement review* and the national energy transformation partnership's work.²¹
- DCCEEW, as part of the national energy transformation partnership has committed to developing the First Nations Clean Energy Strategy to ensure the views of First Nations people are considered when building renewable energy infrastructure.²² Our final determination also seeks to ensure that TNSPs engage with traditional owners and other First Nations people reasonably expected to be affected by the project.²³
- The Energy Charter has published a better practice social licence guideline that seeks to provide practical social licence guidance to mitigate negative impacts on agricultural landholders and identify shared value through the energy transition. Our final

¹⁷ Submission to the draft determination, APA, p. 4; Central NSW Joint Organisation, pp. 3-4 & EUAA, p. 4.

¹⁸ Please see the [Department of Climate Change, Energy, the Environment and Water \(DCCEEW\) website](#) for more information on this review, including the terms of reference.

¹⁹ In August 2022, energy ministers across the country established the National energy transformation partnership.

²⁰ Please see the [Energy and Climate Change Ministerial Council Meeting Communique, 7 July 2023](#), for more information.

²¹ AER, Directions paper - Social licence for electricity transmission projects, 23 October 2023.

²² Please visit the [DCCEEW website](#) for more information.

²³ See section 3.1 for more detail.

determination recognises the importance of engaging with landholders early in the transmission planning process.²⁴

- The Energy Charter has commenced work on evaluating transmission undergrounding to provide greater transparency on how the viability of undergrounding versus overhead designs are evaluated. This will take into account relevant matters set out in the recent NSW parliamentary inquiry into undergrounding.

The Commission also recognises the extensive work undertaken by Queensland, New South Wales, Victoria and Tasmania to develop plans or policies for transmission and renewable energy infrastructure which focus on better practice community engagement.²⁵

1.3.1

Our final rule is consistent with other planning frameworks

The Commission acknowledges, as noted by stakeholders, it is important to provide clarity over how our rule intersects with other frameworks and workstreams given various workstreams undertaken by other entities and relatively new jurisdictional infrastructure planning frameworks.²⁶

Our rule only applies to ISP projects and REZ stages that are progressed under the NER framework up until the RIT-T is completed. For these ISP and REZ projects, once the RIT-T is completed and the project progresses to the next stage of planning, jurisdictional planning frameworks will apply. For projects such as REZs and offshore transmission projects, that do not complete a RIT-T, jurisdictional frameworks will apply from the commencement of planning for these projects. Our final rule does not conflict with these other frameworks, instead, our final rule ensures good community engagement prior to any jurisdictional framework applying. Section 3.3 discusses the application of our rule in more detail.

Our final rule is a broad, principles based rule which means that it is unlikely to conflict with any other reform that applies to ISP projects and commences after this rule. Any further work on social licence for ISP projects would complement this rule, for example by creating further guidance on community engagement or creating mechanisms that support better community engagement under this rule.

²⁴ See section 3.1 for more detail.

²⁵ For example the NSW government's [First Nation Guidelines](#) and the Victorian government's [Victorian Transmission Investment Framework](#).

²⁶ Submissions to the draft determination, Iberdrola, p. 5 & RE-Alliance, p. 4.

2 OUR RULE WILL CONTRIBUTE TO THE ENERGY OBJECTIVES

2.1 The Commission must act in the long-term interests of energy consumers

The Commission can only make a rule if it is satisfied it will or is likely to contribute to the achievement of the relevant energy objectives.²⁷

For this rule change, the relevant energy objective is the NEO:²⁸

The NEO is:²⁹

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; and
- (c) the achievement of targets set by a participating jurisdiction—
 - (i) for reducing Australia’s greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia’s greenhouse gas emissions

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NEO.³⁰

2.2 We must also take these factors into account

2.2.1 We have considered whether to make a more preferable rule

The Commission may make a rule that is different, including materially different, to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NEO.³¹

For this rule change, the Commission has made a more preferable final rule. The reasons are summarised in section 2.3.5 and further discussed in chapter 3.

²⁷ Section 88(1) of the NEL.

²⁸ The NEO was updated on 21 September 2023 with the introduction of the *Statutes Amendment (National Energy Laws) (Emissions Reduction Objectives) Act 2023*. We have applied the updated NEO in this final determination in line with that Act. This is a change from the draft determination where the old NEO was applied.

²⁹ Section 7 of the NEL.

³⁰ Section 32A(5) of the NEL.

³¹ Section 91A of the NEL.

2.2.2

We have considered how the rule will apply in the Northern Territory

The NER, as amended from time to time, apply in the Northern Territory, subject to modifications set out in regulations made under the Northern Territory legislation adopting the NEL.³²

The final rule relates to parts of the NER that apply in the Northern Territory³³, and the Commission has therefore assessed the rule against additional elements required by the Northern Territory legislation:

In developing the final rule, the Commission has considered the application to the Northern Territory according to the following questions:

- Should the NEO test include the Northern Territory electricity systems? Yes. The Commission considers that the NEO test should include the Northern Territory electricity systems given that this rule will be applicable.
- Should the rule be different in the Northern Territory? No. The Commission's final determination is that a uniform rule, rather than a differential rule, should apply to the Northern Territory.

See appendix C for more detail on the legal requirements for a decision.

2.3

How we have applied the legal framework to our decision

The Commission has considered how to address uncertainty and inconsistency over community engagement obligations on TNSPs in the NER relating to planning for ISP projects and REZ stages, against the legal framework and the specific considerations outlined above.

We identified the following criteria to assess whether the proposed rule change, no change to the rules (business-as-usual), or other viable, rule-based options are likely to better contribute to achieving the NEO:

- Outcomes for consumers
- Emissions reduction
- Principles of good regulatory practice
- Implementation considerations

These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request, for impacts within the scope of the NEO. There is one change from the assessment criteria proposed in the draft determination. Emissions reduction has replaced the criterion of decarbonisation. This is in line with the changes to the NEO on 21 September 2023.

The Commission has undertaken regulatory impact analysis to evaluate the impacts of the various policy options against the assessment criteria. Appendix B outlines the methodology of the regulatory impact analysis.

³² National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (NT Act). The regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016.

³³ Under the NT Act and its regulations, only certain parts of the NER have been adopted in the Northern Territory. The version of the NER that applies in the Northern Territory is available [here](#).

The rest of this section explains why the final rule best promotes the long-term interest of consumers when compared to other options and assessed against the criteria. This section also explains why our final rule better promotes the NEO compared to the proposed rule.

2.3.1 Improving outcomes for consumers

Our final rule improves outcomes for consumers by helping lower energy prices, through supporting the timely delivery of transmission infrastructure.³⁴ It does this by providing clarity in the rules around community engagement to assist TNSPs to obtain social licence for ISP projects and REZ stages progressed under the REZ design framework.³⁵

As generally agreed by stakeholders, it is important for TNSPs to undertake early, clear, transparent and effective community engagement when planning for these transmission projects, to obtain and maintain the social licence required to build and operate them.³⁶ Poor and delayed community engagement can create challenges with obtaining social licence and the later identification of issues which may lead to delays in the delivery of transmission infrastructure. Given the scale and importance of ISP projects in connecting cheaper renewable energy sources, delays may lead to significant costs to consumers through higher energy prices.

2.3.2 Contributing to achieving government targets for reducing greenhouse gas emissions

Our final rule helps achieve Commonwealth and state government greenhouse gas emissions reduction targets, for example, the Commonwealth's 2030 target of 43% below 2005 levels. It also helps achieve Commonwealth and state government renewable energy targets, for example the Commonwealth's commitment to a national renewable target of 82% by 2030. It does this by supporting the timely delivery of the transmission infrastructure required to facilitate the transition to a net zero energy system.

As discussed above, compared to business as usual, this rule change enhances community engagement which assists TNSPs to obtain the social licence to build transmission assets in a timely manner which renewable energy generation and storage can connect to.

Our final rule further supports this objective by introducing the requirement that TNSPs make reasonable endeavours to inform communities about the rationale for the proposed transmission project. This may include how the project contributes to reducing greenhouse gas emissions.³⁷

2.3.3 Promoting principles of good regulatory practice

Our final rule promotes principles of good regulatory practice by improving predictability, stability and transparency around engagement with local communities. It does this by

³⁴ With transmission investment occurring earlier rather than later, cheaper renewable energy sources (wind and solar) can be unlocked for consumers, reducing emissions and prices. Without transmission, consumers need to pay for more expensive capacity.

³⁵ Section 3.1 explains how our final rule will provide clarification.

³⁶ Submissions to the draft determination: CEIG, p. 3; EUAA, p. 4; National Farmers Federation, Re- Alliance, p. 1, Solar Citizens, p. 3; Victorian Farmers Federation, p. 1.

³⁷ Section 3.2 discusses this element under the definition of community engagement expectations.

introducing community engagement expectations for all ISP projects which creates consistency and certainty for local communities, TNSPs, and the AER around how communities can expect to be engaged. The final rule includes changes from the draft rule to provide further clarity around how communities should be engaged with incorporating stakeholder feedback around accessibility.

Our final rule also improves clarity over which community stakeholders TNSPs are required to engage with, during the RIT-T for ISP projects. We have made a change between the draft and final rule considering stakeholder feedback to provide certainty and clarity around engagement with local environmental groups.

Our determination strikes a balance between the need for prescription in order to improve certainty, and the need for flexibility to address the specific circumstances of individual projects. This is both in relation to what parties must be engaged, and how and when TNSPs are required to engage with them. For example, the final rule provides clarity around the key community stakeholders that TNSPs must engage with, while providing flexibility to TNSPs to determine what other stakeholders are reasonably expected to be affected.

2.3.4 Achieving timely implementation

Our final rule is relatively simple to implement as it does not carry significant implementation costs or impose new material obligations on TNSPs.³⁸

The rule aligns with other work being done to assist in the timely delivery of transmission projects and to improve social licence. We consider that it is important for our final rule to commence in December 2023 to:

- introduce timely clarification of expectations to reduce uncertainty in transmission building delivery through improved social licence building.
- deliver a necessary foundational step for further reform on improving social licence described in section 1.3, and for other reform, many of which are a result of TPIR recommendations.

Implementing our final rule now will enable the rule change to apply to the next tranche of ISP projects, and to the existing set of ISP projects that are in the RIT-T process if a TNSPs chooses to apply our final rule.

2.3.5 Our more preferable final rule better promotes the NEO

The final rule better contributes to the NEO, than the proposed rule because it provides:

- more clarity over which stakeholders TNSPs are required to engage with. This greater clarity will lead to more targeted and effective engagement with local communities, and
- additional requirements under the definition of community engagement expectations which creates a better standard of community engagement and provides improved transparency over how TNSPs are required to engage with communities.

³⁸ Appendix B sets out our regulatory impact analysis.

These changes encourage TNSPs to undertake more enhanced community engagement compared to the proposed rule. More enhanced community engagement increases the likelihood that TNSPs obtain and maintain social licence and improves the quality of planning information available to TNSPs. Both social licence and quality of planning information are critical factors to the timely delivery of transmission. The timely delivery of transmission infrastructure will help achieve better outcomes for consumers through lower prices and assist in reducing greenhouse gas emissions.

3

HOW OUR RULE WILL OPERATE

3.1

Clarifying that TNSPs are required to engage with local community stakeholders for major transmission projects

BOX 1: CLARIFY WHO TNSPs ARE REQUIRED TO ENGAGE WITH

Our final determination is to amend:

- the definition of preparatory activities,
- the definition of interested parties for the purpose of a RIT-T,¹ and
- references to council and stakeholder engagement in the REZ design framework,

to clarify that TNSPs are required engage with stakeholders who are reasonably expected to be affected by the development of the actionable ISP project, future ISP project, or project within a REZ stage (including local landowners, local council, local community members, local environmental groups and traditional owners) in accordance with the community engagement expectations.²

These amendments will require TNSPs to identify and engage with these stakeholders from the development of the ISP until the completion of the RIT-T. Our final rule does not prescribe when during these processes a TNSP must commence engagement with a particular stakeholder. Instead, our final rule provides flexibility for a TNSP to decide when it is most beneficial to engage with various stakeholder groups as long as all these groups have been engaged in accordance with the rules prior to the completion of the RIT-T.

Changes from draft to final

- the final rule includes local environmental groups as a specific group that TNSPs are required to engage with as part of preparatory activities and during the RIT-T.
- the final rule includes a broader definition of traditional owners to include affected lands and waters on or near the area of the project.

Note: ¹an interested party includes stakeholders who are reasonably expected to be affected by the development of the actionable ISP project, not a future ISP project or project within a REZ stage.

Note: ² community engagement expectations are discussed further in section 3.2.

Our final rule includes minor changes to the definition of preparatory activities, interested parties, and wording in the REZ design report from the draft rule. This reflects broad support from stakeholders for the changes proposed under the draft rule.³⁹

3.1.1

Including community engagement in the definition of preparatory activities

Our final determination is to extend the definition of preparatory activities to clarify that preparatory activities include:⁴⁰

³⁹ Submissions to the draft determination: AEMO, p. 3, AER, p. 1; ENA, p. 2; National Farmers Federation, p. 2; Farmers for Climate Action, p. 2; TasNetworks p. 1; Powerlink, p. 2 & Transgrid, p. 3.

⁴⁰ Paragraph (e) under the definition of preparatory activities under clause 5.10.2 of the final rule.

engagement with stakeholders who are reasonably expected to be affected by the development of the actionable ISP project, future ISP project, or project within a REZ stage (including local landowners, local council, local community members, local environmental groups and traditional owners) in accordance with the community engagement expectations.

Our final rule explicitly references local environmental groups which is a change from the draft rule. Stakeholders consider that it is important to engage with these groups earlier and it is unclear whether this group was captured under draft rule because the environment may not be considered a stakeholder.⁴¹ This change and other elements of this final rule are discussed in more detail in Table 3.1 below.

Our final rule does not represent an exhaustive list of stakeholders that must be engaged. Instead, our final rule is broad and flexible and is intended to capture a diverse range of stakeholders that are expected to be reasonably affected by the project who we expect TNSPs to engage with. It is not beneficial to explicitly reference all other stakeholder groups that are already clearly captured under our final rule to maintain flexibility.

The objective of the final rule is to increase transparency and reduce uncertainty for local communities and other affected stakeholders about when they can expect to participate in the planning process for major transmission projects affecting them. This also provides guidance to TNSPs over which stakeholders TNSPs are required to consult with, at a minimum, when undertaking preparatory activities.

The current rules do not explicitly recognise the value of early engagement with this cohort of stakeholders in the national planning process for ISP projects.⁴² The existing definition includes council and stakeholder engagement but is not clear about what local community stakeholders TNSPs are required to engage with, nor does it encourage TNSPs to seek out and engage with affected stakeholders. The lack of clarity also does not support TNSPs to include costs for extensive local community engagement in their revenue proposals.

Although our final rule requires TNSPs to engage with communities early, before the RIT-T is completed, the final rule does not prescribe when, during the early stages of planning, TNSPs must commence engagement with each local community stakeholder. It may be beneficial for TNSPs to start engaging with different local community stakeholders at different stages of the planning process. For example, TNSPs are not expected to engage with landowners before potential corridors or routes have been identified. Once a potential corridor has been identified, it is appropriate to engage with landowners to understand any issues that may impact the design and development of the project. TNSPs should therefore retain the discretion to engage with local community stakeholders when the TNSP considers it is most beneficial to do so, provided engagement is undertaken as part of preparatory activities, before the RIT-T is completed.

⁴¹ Submissions to the draft determination: CEIG, p. 2; RE- Alliance, p. 3 & Solar Citizens, p. 3.

⁴² Clause 5.10.2 of the NER.

Table 3.1: Elements included in the definition of preparatory activities under our final rule

ELEMENT	RATIONALE
stakeholders who are reasonably expected to be affected by the development	<p>The intention of our final rule is to require TNSPs to consider the impact of projects on the local community by engaging with stakeholders who may be affected. Our final rule encourages TNSPs to consider who may be reasonably affected by the project and actively engage with them.</p> <p>This may include, in addition to the examples of stakeholder groups described in detail below, local industry, local business groups and local large energy users (such as mining, exploration and licence holders).</p>
local landowners	<p>Landowners are defined as in relation to an area of land, each person who is an owner or lessee of the land.¹</p> <p>For example, landowners that may be engaged with are local farmers who are expected to host the transmission infrastructure. This definition also includes neighbours because, as noted by Farmers for Climate Action, it is important to engage with landowners of neighbouring properties because they may be impacted in a way that may cause loss of income and require land use changes.²</p>
local council	This refers to local government whose approval and input may be required or whose operations are reasonably expected to be affected by the transmission development.
local community members	This refers to people within the local community through which the transmission project may be built that are reasonably expected to be affected by the development.
local environmental groups	<p>Our final determination is to also explicitly include local environmental groups in the definition of preparatory activities. These are environmental groups that represent a local environmental interest. Engaging with local environmental groups would identify:</p> <ul style="list-style-type: none"> • environmental concerns that could delay project delivery if not mitigated, and • potential costs of mitigating environmental harm such as the cost of biodiversity offsets. <p>We consider that is appropriate to explicitly reference environmental groups to clarify that these groups can be considered by TNSPs to be reasonably affected by transmission development. We consider that without this change, it would be unclear whether environmental groups should be engaged because the environment is not a stakeholder.</p>

ELEMENT	RATIONALE
traditional owners	<p>Our final determination will introduce the following definition into the NER: 'traditional owners in relation to an actionable ISP project, future ISP project, or project within a REZ stage (as applicable) means Aboriginal and Torres Strait Islander peoples who have a spiritual affiliation to particular lands, waters or a site on or near the area the subject of the actionable ISP project, future ISP project, or project within a REZ stage (as applicable).'</p> ³ <p>Our final determination broadens the definition of traditional owner from the definition in the draft rule to include Aboriginal and Torres Strait Islander peoples who have a spiritual affiliation to particular lands, waters on or near the areas the subject of the transmission project.</p> <p>This change reflects feedback that we have received from stakeholders including the First Nations Clean Energy Network during bilateral discussions who considered that it is important to include affected lands and waters on or near the area of the project.</p> <p>We consider that the definition appropriately describes stakeholders and communities who can help TNSPs consider the potential impact of the project on First Nations communities and the interaction between the proposed transmission projects with the cultural heritage of the land.</p> <p>The Commission considers that our definition is consistent various definitions of traditional owners and First Nations peoples across different jurisdictional and Commonwealth frameworks.</p> <p>TNSPs are required to apply our definition of traditional owners when undertaking engagement as part of preparatory activities and the RIT-T, and apply definitions in other frameworks when satisfying specific obligations under those frameworks. We consider our revised definition to be broad enough to include traditional owners described in other frameworks which creates consistency over engagement with traditional owners across different projects and project stages.</p>

Source: ¹Definition of landowner in Chapter 10 of the NER; ²Farmers for Climate Action, submission to the draft determination, p. 3.³ Definition of traditional owner in Chapter 10 of the final rule.

We consider that the final rule already captures the additional stakeholder groups suggested by stakeholders in submissions because they may be considered as stakeholders who are reasonably expected to be affected by the development of a project. Explicitly referencing these stakeholders may create the perception of a more prescriptive, exhaustive and inflexible list.

We therefore have not made changes to explicitly include neighbours, representatives of local industry, local business groups, mining, exploration and production licence holders, large manufacturing and industry sites and other local large energy users suggested in submissions.⁴³

Transgrid suggested specifying that engagement should be with 'area of influence' stakeholders.⁴⁴ We do not consider this amendment would improve clarity on who TNSPs should engage with.

The Commission acknowledges that some stakeholder groups may not be captured under our final rule. The Community Power Agency expressed concern that there may be stakeholders, such as various experts not local to the region, that have significant knowledge which may improve outcomes of projects, and yet may not be considered as reasonably expected to be affected by the project under our draft rule.⁴⁵ We consider that explicitly referencing these stakeholders would reduce clarity of our rule. These stakeholders represent a broad group and it would be difficult for TNSPs to identify these stakeholders.

However, TNSPs would already engage with some of these stakeholders during the completion of other preparatory activities. For example, the definition of preparatory activities includes engineering design and preliminary assessment of environmental and planning approvals. This would involve engagement with a range of practitioners such as environmental experts and entities to map the environmental approvals process.

Our final rule applies in Victoria

For the avoidance of doubt, the final rule applies to the Australian Energy Market Operator (AEMO) in Victoria. This is consistent with the intention of the draft rule. Our final determination is to make an amendment to the NER to clarify that AEMO must undertake preparatory activities for ISP projects and REZ stages in Victoria.⁴⁶ AEMO and other stakeholders consider this appropriate as AEMO currently undertakes transmission planning in Victoria.⁴⁷

This is a change from the draft rule because it was not clear under the draft rule whether the preparatory activities provision applied to AEMO in Victoria.

43 Submissions to the draft determination: CEIG, p. 2; RE- Alliance, p. 3, Solar Citizens, p. 3; Mineral Council of Australia, p. 1 & Farmers for Climate Action, p. 3.

44 Transgrid, submission to the draft determination, p. 3.

45 Community power agency, submission to the draft determination, p.3.

46 Clause 5.1A.1(f)(8) of the final rule.

47 Submissions to the draft determination: AEMO, p. 3; Iberdrola, p. 4 & APA, p. 4.

References to TNSPs in this determination include AEMO in its capacity as a TNSP as per AEMO's declared network functions in Victoria.⁴⁸

The Commission recognises that the transmission planning arrangements in Victoria may change under the new Victorian Transmission Investment Framework (VTIF) which is yet to be implemented. The application of our final rule in Victoria after the implementation of the VTIF will depend on how the VTIF is implemented.⁴⁹

3.1.2

Amending the definition of interested party for the RIT-T of an actionable ISP project

Our final determination is to amend the definition of interested party to clarify that local community stakeholders who TNSPs will engage with as part of preparatory activities (under our final rule), may also be interested parties in respect of the RIT-T for actionable ISP projects. This change emphasises that TNSPs are required to continue to engage with these stakeholders throughout the RIT-T process. This explicitly recognises the value that this cohort can provide in helping TNSPs to identify and manage specific risks associated with locating a major transmission project within a community. It also creates consistency and clarity in the NER around references to stakeholder groups in respect of the RIT-T.

Under our final rule an interested party, in respect of an actionable ISP project, includes both:

- 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 (PACR),⁵⁰ and
- stakeholders who are reasonably expected to be affected by the development of the actionable ISP project (including local landowners, local council, local community members, local environmental groups and traditional owners).⁵¹

This change aligns the definition of preparatory activities with the definition of interested party which creates consistency and clarity in the NER around references to stakeholder groups in respect of transmission planning. This means interested parties are, for example, landowners. This includes landowners of neighbouring properties which, as mentioned by the Farmers for Climate Action, is appropriate to be captured as an interested party under our final rule.⁵² It is not beneficial to explicitly reference landowners of neighbouring properties because they are included in the definition of landowner as discussed in Table 3.1.

Consistent with the change to preparatory activities from the draft rule, the definition of interested party under our final rule explicitly references local landowners.⁵³

Under our final rule, TNSPs will make RIT-T publications available to and invite submissions from both groups of stakeholders.⁵⁴ These stakeholders may also be considered to be a

⁴⁸ Section 50C(1)(a) of the NEL.

⁴⁹ For more information on the VTIF, see [here](#).

⁵⁰ Clause 5.15.1 of the NER.

⁵¹ Clause 5.15.1(b) of the final rule, see Table 3.1 for more detail on each stakeholder group.

⁵² Farmers for Climate Action, submission to the draft determination, p. 3.

⁵³ See Table 3.1.

⁵⁴ Clauses 5.16.4 & 5.16A.4 of the NER.

disputing party and may, by notice to the AER, dispute conclusions made by the RIT-T proponent in the PACR.⁵⁵

Although stakeholders are entitled to raise disputes in relation to the RIT-T process, interested parties will need to satisfy the existing criteria set out in the rules to raise a dispute. The AER noted that disputes cannot be raised in relation to matters that are treated as externalities or relates to an individual's personal detriment or property rights.⁵⁶ The dispute resolution framework is therefore not the appropriate avenue for stakeholders to raise all complaints about a project.

More appropriate alternative processes to raise complaints is discussed further in section 3.2.1.

Definition of interested party for non ISP projects

Under our final rule an interested party, in respect of non ISP projects, remains as only 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 PACR.⁵⁷

3.1.3

Amending the REZ design framework

Our final determination is to clarify that a REZ design report, prepared for a REZ stage under the NER framework, must include the results of any engagement with stakeholders who are reasonably expected to be affected by the development of a project within a REZ stage, including local landowners, local council, local community members, local environmental groups and traditional owners, undertaken as part of preparatory activities.⁵⁸

This change is consistent with our clarifying amendments to the definition of preparatory activities and interested party. This creates consistent TNSP engagement with local community stakeholders across early planning for ISP projects and REZ stages that are progressed under the national framework.

3.2

Clarifying how TNSPs are expected to engage with local community stakeholders

BOX 2: INTRODUCING COMMUNITY ENGAGEMENT EXPECTATIONS FOR ISP PROJECTS AND REZ STAGES

Our final determination is to:

- define community engagement expectations, and

⁵⁵ Rule 5.16B of the NER.

⁵⁶ AER, submission to the draft determination. p. 2.

⁵⁷ Clause 5.15.1 of the NER.

⁵⁸ Clause 5.24.1 (d)(3)(C) of the final rule.

- require TNSPs to make reasonable endeavours to engage with local communities, and interested parties in accordance with community engagement expectations, as part of preparatory activities, and throughout the RIT-T process.

These changes ensure a consistent minimum standard of engagement across ISP projects and REZ stages.

Changes from draft to final

Our final rule represents minor wording changes to elements a, b and g of the definition of community engagement expectations to improve accessibility. These changes are discussed in Table 3.2.

Our final rule defines community engagement expectation as:⁵⁹

“community engagement expectations in relation to actionable ISP projects, future ISP projects, or projects within a REZ stage (as applicable), means using reasonable endeavours to ensure that:

- (a) stakeholders receive information that is clear, accurate, accessible, relevant, timely and explains the rationale for the relevant project;
- (b) engagement materials, methods of communication and participatory processes are tailored to meet the needs of different stakeholders;
- (c) the stakeholders’ role in the engagement process is clearly explained, including how their input will be taken into account;
- (d) stakeholders have sufficient opportunity to consider and respond to the information they receive;
- (e) stakeholder feedback, including potential ways to deliver community benefits, are considered;
- (f) stakeholders are informed about how stakeholder feedback has been taken into account in decision-making; and
- (g) stakeholders are provided with a range of opportunities to be regularly involved throughout the actionable ISP projects, future ISP projects and REZ stages.”

Our final rule reflects minor changes to the definition of community engagement expectations to further improve community access to better engagement resources. This reflects broad support from stakeholders for the principles based definition proposed under the draft rule.⁶⁰

Our final determination is to require TNSPs to adhere to community engagement expectations when engaging with stakeholders, as part of preparatory activities:

⁵⁹ See community engagement expectations definition under clause 5.10.2 of the final rule.

⁶⁰ Submissions to the draft determination: AEMO, p. 4, AER, p. 2; CEIG, p. 3; RE- Alliance, p. 3; ENA, p. 3; National Farmers Federation, p. 2; AusNet, pp. 1-2. & Transgrid, p. 4.

- who are reasonably expected to be affected by the development of the actionable ISP project, future ISP project, or project within a REZ stage (including local landowners, local council, local community members, local environmental groups and traditional owners),⁶¹
- who are interested parties in respect of a RIT-T for an actionable ISP project,⁶² and
- when developing a REZ design report.⁶³

The community engagement expectations, which are discussed in greater detail in Table 3.2, will create clear and consistent community engagement across actionable ISP, future ISP and REZ stage projects. They will also provide transparency and predictability for local communities around when and how they can expect to be engaged. This will assist in building and maintaining trust between TNSPs and local communities.

These community engagement expectations are intended to ensure a consistent minimum standard of practice. They do not represent an exhaustive list of expectations. We encourage TNSPs to continue improving their community engagement towards best practice to improve social licence building for major transmission infrastructure.

The Commission recognises that TNSPs will have multiple discussions with a stakeholder over the course of the RIT-T. The community engagement expectations are intended to apply to the engagement as a whole rather than each specific discussion. For example, TNSPs would only be able to inform stakeholders how their feedback has been taken into account⁶⁴ during later stages of engagement whereas the stakeholder's role in the process⁶⁵ can be discussed earlier.

Under these expectations, there is some flexibility for TNSPs to undertake engagement at varying levels of granularity depending on whether a project is an actionable ISP project or future ISP project. Section 3.3.1 discusses this in more detail.

Currently, TNSPs must engage with stakeholders in accordance with several criteria when preparing REZ design reports.⁶⁶ Our final determination is to incorporate these criteria in the definition of community engagement expectations.

61 Paragraph (e) under the definition of preparatory activities under clause 5.10.2 of the final rule.

62 Clause 5.16A.4(v) of the final rule.

63 Clause 5.24.1(e) of the final rule.

64 definition of preparatory activities under clause 5.10.2 of the final rule, paragraph f.

65 Ibid, paragraph c.

66 Clause 5.24.1(e) of the NER.

Table 3.2: Community engagement expectations under our final rule

COMMUNITY ENGAGEMENT EXPECTATION	RATIONALE
(a) stakeholders receive information that is clear, accurate, accessible, relevant, timely and explains the rationale for the relevant project	<p>It is important for stakeholders to have complete, accurate and relevant information to make informed decisions and give considered feedback about a project.</p> <p>This includes being informed about the broader context behind transmission projects. For example, the proposed project may contribute to emissions reduction. It is also important for communities to be informed about why the proposed project may need to be built in the community, for example, the rationale behind a particular corridor option.</p> <p>Changes from draft to final</p> <p>Our final rule includes the word 'accessible'.</p> <p>This reflects feedback from the National Farmers Federation, PIAC and other stakeholders in forums and bilateral discussions on the importance of ensuring information is accessible to all stakeholders.¹ This is because stakeholders have different resources to engage with information provided by TNSPs, or may have difficulties in accessing information in more generic forms.</p>
(b) engagement materials, methods of communication and participatory processes are tailored to meet the needs of different stakeholders	<p>The Commission recognises that community stakeholders are diverse and have different resources, experience, interests, concerns, and different relationships with their lands.</p> <p>It is important for engagement with communities to reflect the needs of each stakeholder.</p> <p>Changes from draft to final</p> <p>Our final rule reflects a suggestion by the Community Power Agency to ensure that 'participatory processes' are tailored to meet the needs of different stakeholders.²</p> <p>We agree that steps should be undertaken by the TNSPs to assist stakeholders to participate in the engagement process. Providing different ways to participate, for example enabling face to face,</p>

COMMUNITY ENGAGEMENT EXPECTATION	RATIONALE
	virtual meetings and written communication, would reduce barriers to participation.
(c) the stakeholders' role in the engagement process is clearly explained, including how their input will be taken into account	It is important for engagement to be meaningful and TNSPs to be transparent around how communities can be involved and what decisions they can influence. This will help stakeholders focus their feedback on areas that they can impact.
(d) stakeholders have sufficient opportunity to consider and respond to the information they receive	<p>The Commission acknowledges that communities may spend a significant amount of time engaging on these projects.</p> <p>It is important that communities are provided with sufficient time to respond to information to enable them to provide more considered feedback and balance competing priorities.</p>
(e) stakeholder feedback, including potential ways to deliver community benefits, are considered	<p>TNSPs should undertake broad information gathering exercises and consider all stakeholder feedback received. Some feedback may be relevant for the RIT-T process and some may be more useful for subsequent planning approval processes.</p> <p>In relation to community benefits, TNSPs are expected to start having conversations about community benefits to investigate what the costs of providing community benefits for each project option are likely to be.</p> <p>Information about community benefits gathered during engagement will complement any existing jurisdictional benefit-sharing framework or further guidance on community benefits provided by other entities.</p>
(f) stakeholders are informed about how stakeholder feedback has been taken into account in decision-making	To improve transparency over decision-making it is important for communities to be informed about how their combined feedback has shaped the development of a project, including why potential options identified by communities have not been pursued, if relevant. This could be included in the PACR.
(g) stakeholders are provided with a range of opportunities to be regularly involved	Project information becomes more granular and is regularly updated throughout the ISP and RIT-T processes. We consider that it is important for stakeholders to have multiple opportunities to be engaged as new information becomes relevant or circumstances change.

COMMUNITY ENGAGEMENT EXPECTATION	RATIONALE
throughout the actionable ISP projects, future ISP projects and REZ stages.	<p>Changes from draft to final</p> <p>Our final rule reflects a suggestion by the Community Power Agency to ensure that stakeholders are provided with a range of opportunities to be involved.³</p> <p>We agree that stakeholders should be provided with different ways to be involved, during the planning process to improve accessibility and ensure that issues that could impact the delivery of projects are discovered and considered.</p>

Source: ¹Submission to the draft determination: National Farmers Federation, p. 2 & PIAC, p. 7; ²Community Power Agency, submission to the draft determination, p. 4; ³Community Power Agency, submission to the draft determination, p. 4.

We consider TNSPs may implement our final rule in several ways, after analysing the most beneficial approach for a specific project. For example, as suggested by Kee Li, TNSPs may reflect the elements of community engagement expectations in their future community engagement plans. These plans should be place based and project specific.⁶⁷ To satisfy element (g), as suggested by Kee Li, TNSPs may set up place based community consultative committees to facilitate meaningful and ongoing engagement with communities.⁶⁸

We have not included specific forms of implementation, further prescriptive guidance or codes of conduct as suggested by some stakeholders in our final rule.⁶⁹ We consider that this would reduce the ability of our final rule to be adaptable to the specific needs of each project and each affected community. We also acknowledge broader work being undertaken by other entities which may produce more guidance on community engagement.⁷⁰

Similarly, we have not further prescribed what types of information should be provided to communities under our final rule as suggested by stakeholders. However, it is important for TNSPs to provide the information to communities suggested by these stakeholders. For example, as noted by the Victorian Farmers Federation, in respect of farmers, it is important for TNSPs to provide all information required for farmers to determine the ability to continue farming practices, and how TNSPs will mitigate impacts on farming.⁷¹

It is also important, as noted by the National Farmers Federation and Energy Ombudsmen, that TNSPs should provide communities with information on how to raise complaints and what internal and external dispute resolution frameworks are available.⁷² This is discussed further below.

3.2.1

Complaints in relation to engagement should be raised with TNSPs

The Commission recognises concerns raised by stakeholders around monitoring, compliance and enforceability of our final rule as our final rule is principles based and provides TNSPs some flexibility to apply our rule.⁷³

It is important for our final rule to be flexible to ensure that it remains fit for purpose and is adaptable to the unique circumstances of each project and community. We consider that the final rule and final determination provide substantive direction to TNSPs to ensure community engagement is undertaken earlier and better.

⁶⁷ Kee Li, Submission to the draft determination, p. 2.

⁶⁸ Ibid, p. 3.

⁶⁹ Submissions to the draft determination: RE-Alliance, p. 3; Kee Li, pp. 2-3 & Farmers for Climate Action, p. 2.

⁷⁰ This is discussed in section 1.3.

⁷¹ Victorian Farmers Federation, submission to the draft determination, p. 1.

⁷² Submissions to the draft determination: National Farmers Federation, p. 2. & Energy and Water Ombudsman (SA, QLD, NSW, VIC), p. 2.

⁷³ Submissions to the draft determination: RE-alliance, p. 2 & Solar Citizens, p. 3 & PIAC, p. 8.

The AER may in updates to the CBA guidelines, provided for by our final rule,⁷⁴ or in subsequent updates to the AER's social licence directions paper, provide additional commentary in relation to our final rule.⁷⁵

The AER enforces this rule

Transmission businesses are obligated to comply with our final rule. The Australian Energy Regulator (AER) must be satisfied that TNSPs have appropriately followed the RIT-T consultation requirements, in line with the final rule. If they have not, then the AER may not permit TNSPs to seek cost recovery for projects.

Complaints pathways should be made clear to stakeholders

Though the AER is responsible for enforcing our final rule, it is not appropriate for complaints, in relation to community engagement, to be raised with the AER through the dispute resolution framework, in the first instance, as discussed in section 3.1.2.

We consider that it is appropriate and efficient to raise complaints with TNSPs in the first instance. Then, depending on the nature of the issue, stakeholders may [lodge a complaint](#) with the AEIC or complaints may be recorded on the [AER's complaints register](#). Transmission businesses must address complaints in this register. It may also be appropriate, in some circumstances, to raise complaints with the relevant energy Ombudsman. These options should be explained in any information provided to communities.⁷⁶

3.3

The final rule applies to actionable ISP projects, future ISP projects and REZ stages

BOX 3: THE FINAL RULE WILL APPLY TO ACTIONABLE ISP PROJECTS, FUTURE ISP PROJECTS AND REZ STAGES THAT ARE PROGRESSED UNDER THE NER FRAMEWORK

Our final determination is to explicitly require TNSPs to engage with local communities, in accordance with our final rule, for actionable ISP projects, future ISP projects and REZ stages.

This is because these projects represent significant infrastructure that may have wide-ranging impacts on a broad spectrum of community stakeholders. It is important to build social licence for these projects and improve the quality of planning information through community engagement because delays to these projects may result in significant costs to consumers and delay emissions reduction.

This represents no change from the draft rule.

⁷⁴ See section 3.4.1.

⁷⁵ Please find the directions paper [here](#).

⁷⁶ Victorian Farmers Federation, submission to the draft determination, p. 1.

Our final determination is to require TNSPs to engage with local community stakeholders, in line with community engagement expectations, who are reasonably expected to be affected by the development of a:⁷⁷

- actionable ISP project,
- future ISP project, or
- project within a REZ stage that is being progressed under the NER framework.

We consider that the application of our final rule to these projects is appropriate for reasons specified in Table 3.3 below.

Stakeholders suggested applying our final rule to REZ projects that are progressed under state based frameworks, offshore transmission projects, current actionable ISP projects progressing through the transmission planning framework and RIT-T projects that are not in the ISP.⁷⁸ The AEMC is unable to make rules that cover some of these projects as they are not progressed under the national framework. For non ISP projects that are progressing under the national framework the AEMC has made a decision not to extend the framework officially under the final rule.

We agree with stakeholders that it is important for communities to be engaged effectively during the planning process for all transmission and renewable energy projects. As discussed in section 1.3, there are other entities undertaking work to improve community engagement across different energy infrastructure projects. We made a submission to the *Community engagement review* being led by the AEIC. In the submission, we considered that it is beneficial to have clear, consistent, and transparent community engagement practices across energy infrastructure projects.⁷⁹

The final rule creates a minimum standard of practice and although the final rule applies only to ISP projects, we expect TNSPs to adopt the elements of our final rule and, where appropriate, apply them to engagement with communities on other transmission projects. For example, in engaging with communities for non ISP RIT-T projects that are expected to have a significant impact on communities, TNSPs may choose to engage with communities in accordance with community engagement expectations described in section 3.2.

⁷⁷ Paragraph (e) under the definition of preparatory activities and the definition of community engagement expectations under clause 5.10.2 of the final rule.

⁷⁸ Submissions to the draft determination, CEIG: p. 3; APA, p. 4; RE-Alliance, p. 3; Solar citizens, p. 3; & Iberdrola, p. 4.

⁷⁹ AEMC, submission to the Community engagement review, p. 2.

Table 3.3: Transmission projects that our final rule does not apply too.

TRANSMISSION PROJECT	RATIONALE FOR NOT APPLYING THE FINAL RULE
REZ projects that are progressed through jurisdictional based (state) planning frameworks.	The AEMC cannot make rules that apply to projects being progressed under separate jurisdictional frameworks, for example, the Central West Orana REZ being planned by EnergyCo under the NSW roadmap.
Offshore transmission projects.	It is currently unclear how various planning frameworks will apply to offshore transmission development. Some offshore wind projects, like Marinus Link, may be in the ISP which will enable our final rule to apply, but it is unclear for those projects that are not in the ISP what planning frameworks will apply. The Commission will consider ways to support better social licence building for offshore transmission projects in any future work on offshore transmission project planning.
RIT-T projects that are not actionable or future ISP projects. For example replacement or upgrade projects for which a RIT-T may be undertaken.	<p>We consider that the requirements imposed by our final rule may not be appropriate for all RIT-T projects.</p> <p>Our final rule may increase the cost of engagement as TNSPs commit more resources to better engage with communities and likely require stakeholders to be more involved in the planning process which, as raised by several stakeholders in public forums, can contribute to stakeholder fatigue.</p> <p>This is appropriate for ISP projects because it contributes to the NEO by mitigating the risk of delays major transmission projects which reduces the risk of significant costs to consumers.</p> <p>However, not all RIT-T projects may be delayed because of poor community engagement. Some stakeholders consider there is little evidence of material delays to replacement projects because these projects do not materially impact wider communities and are therefore unlikely to face significant community opposition.¹ We consider applying this rule to replacement projects would increase costs to TNSPs and communities with little benefit.</p> <p>It would not be proportionate for the rule to apply to all non ISP RIT-T projects. It may be appropriate to apply the final rule to some projects, we expect TNSPs to apply discretion and consider which elements are most appropriate to apply to these projects.</p>
Current actionable ISP projects.	The final rule allows TNSPs to opt into applying the rule to current projects but our final rule applies to the

TRANSMISSION PROJECT	RATIONALE FOR NOT APPLYING THE FINAL RULE
	RIT-T process, and most of the current actionable ISP projects like HumeLink and Western Renewables Link, have completed the RIT-T.

Source: Submissions to the draft determination: ENA, p. 3. & AusNet, p. 3.

3.3.1

Community engagement for future ISP projects will be less extensive in practice compared to actionable ISP projects.

The Commission acknowledges that planning for future ISP projects is different from planning for actionable ISP projects. Planning for actionable ISP projects is appropriately more granular and extensive.⁸⁰

Given that our final rule does not distinguish between future and actionable ISP projects, some TNSPs considered whether the level of community engagement for future ISP projects should be equivalent to actionable ISP projects.⁸¹ For example, some TNSPs consider it may not be appropriate to consider community benefits for all ISP projects because a future ISP project may have several high-level route options.⁸² This means that there is some uncertainty around the likely communities that are expected to be affected. Granular discussions about community benefits may be more appropriate for actionable ISP projects where potential corridors have been narrowed and affected communities become clearer.

The final rule does not intend to require TNSPs to engage with communities for future ISP projects in the same way as for actionable ISP projects. Under our final rule TNSPs will therefore not be expected to deliver community benefits for all projects nor are TNSPs expected to consider benefits, in detail, for future projects.

Currently, TNSPs must commence preparatory activities for future ISP projects as directed by the ISP.⁸³ Once a project becomes actionable, TNSPs must complete preparatory activities regardless of whether it is specified in the ISP.⁸⁴

This means that under our final rule, TNSPs must only undertake engagement for future ISP projects, in accordance with community engagement expectations, that are specified in the ISP. This could be high-level engagement with stakeholders that, at that stage, the TNSP expects to be affected by the project. For example, local councils that are likely to fall within multiple potential project corridors.

For actionable ISP projects, before the RIT-T is completed, TNSPs must engage with all stakeholders specified in section 3.1 in accordance with all elements of community engagement expectations in section 3.2. Our final rule provides TNSPs flexibility to determine, in the period leading up to the PACR, when to engage with each stakeholder group, at what level of granularity should each discussion be undertaken and how the community engagement expectations will be implemented.

80 Actionable ISP projects are projects for which TNSPs should commence work and deliver as soon as possible. Future ISP projects are projects for which TNSPs should undertake preliminary planning to inform more detailed consideration of these projects in the next ISP. There is uncertainty over the optimal timing for future ISP projects as these projects are unlikely to be required in the near term. Planning for these projects will become more granular once there is more certainty around when these projects must be delivered.

81 Submissions to the draft determination: Transgrid, p. 3 & TasNetworks, p. 2.

82 Ibid.

83 Clause 5.22.6(d)(2) of the NER.

84 Clause 5.22.6(d)(1) of the NER.

3.4 Including transitional rules which support the timely implementation of our final rule

RECOMMENDATION 1: INCLUDING TRANSITIONAL RULES FOR AER GUIDELINE UPDATES AND TO ENABLE TNSPS TO CHOOSE TO APPLY OUR FINAL RULE FOR CURRENT PROJECTS

Our final determination is to include transitional rules, proposed in the rule change request, which:

- provide the AER thirteen months to update and publish its cost benefit analysis (CBA) guideline and allow prior consultation, in anticipation of the amending rule, to satisfy the consultation requirements to update the guideline. This is an additional one month than what was provided for under the draft rule.
- provide TNSPs the opportunity to choose to engage with local communities in accordance with community engagement expectations, required by our final rule, if they have already commenced community consultation or preparatory activities for an ISP project.

The transitionals ensure the smooth implementation of our final rule.

3.4.1 The AER has thirteen months to update its CBA guidelines

Our final rule may require updates to the AER's CBA guideline. To support the AER in updating its CBA guideline, we have included the following transitional rules in our final rule:

- the AER must update and publish on its website the CBA guidelines⁸⁵ within thirteen months after the commencement date of our final rule.⁸⁶ The AER must review its guideline to comply with the requirements under the NER,⁸⁷ and in doing so must comply with the Rules consultation procedures.⁸⁸
 - Our final rule provides for an additional one month for the AER to update its CBA guideline than our draft rule. This, as requested by the AER, enables the AER to concurrently progress other potential updates to the guideline.⁸⁹
 - ENA suggested that the AER may not require twelve months to make minor changes to the guidelines as a result of our final rule.⁹⁰ We acknowledge ENA and Transgrid's view that guidance to complement this rule should be provided in a timely way.⁹¹ The Commission does not consider that the application of our final rule is dependent on updates to the CBA guideline. As discussed above, the time provided for the AER to

⁸⁵ Clause 5.22.5 of the NER.

⁸⁶ Clause 11.161.3(a) of the final rule.

⁸⁷ Specifically, clause 5.16A.2(c)(4) of the NER.

⁸⁸ The Rules consultation procedures refer to the procedures for consultation with registered participants or other persons as set out in rule 8.9 of the NER.

⁸⁹ AER, submission to the draft determination, p. 3.

⁹⁰ ENA, submission to the draft determination, p. 4.

⁹¹ Submissions to the draft determination: ENA, p. 3 & Transgrid, p. 4.

update the guideline allows the AER to concurrently progress other potential updates to the guideline. This enables a more efficient process for the AER and stakeholders. The AER has also released a social licence directions paper which complements this rule by providing clarity over cost recovery for community engagement activities to improve social licence.⁹²

- if the AER undertakes consultation to update the CBA guidelines in respect of our final rule, prior to the commencement of the rule, the consultation may satisfy the necessary requirements under the Rules consultation procedures.⁹³

3.4.2

TNSPs can choose to apply the final rule to current projects

Our final determination is to provide TNSPs with the flexibility to choose whether to engage with local communities in accordance with community engagement expectations required by our final rule where consultation on the ISP project has already commenced. It may be useful for TNSPs to apply our final rule to existing projects to support better community engagement outcomes. This depends on the planning stage of the project because it may be difficult to implement our final rule part way through consultation. For the reasons outlined in Table 3.3 we do not consider it appropriate to require TNSPs to apply the final rule to current actionable ISP projects suggested by some stakeholders.⁹⁴ Under the final rule:

- a TNSP, that has commenced preparatory activities or community engagement for an actionable ISP project or future ISP project, may choose whether to engage with the range of local community stakeholders as part of preparatory activities and/or in accordance with the community engagement expectations set out in our final rule.⁹⁵

⁹² Please find the directions paper [here](#).

⁹³ Clause 11.[161].3 (b) of the final rule.

⁹⁴ Submissions to the draft determination: RE-Alliance p. 3. & Solar citizens, p. 3.

⁹⁵ Clauses 11.161.2; 11.161.4 and 11.161.5 of the final rule.

A RULE MAKING PROCESS

A fast track rule change request includes the following stages:

- a proponent submits a rule change request
- the Commission initiates the rule change process by publishing a notice which communicates the Commission's decision to fast track the rule change
- the Commission publishes a draft determination and, if relevant, a draft rule
 - stakeholders lodge submissions on the draft determination and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a final determination and, if relevant, a final rule.

You can find more information on the rule change process on our [website](#).

A.1 TPIR made recommendations in relation to social licence

In the TPIR, the Commission found that TNSPs, local communities, and other stakeholders affected by major transmission projects are critical partners in the delivery of major transmission. Building and maintaining trust between these stakeholders is necessary if TNSPs are to deliver major transmission projects efficiently and on time.

We concluded in the TPIR that it is important to have early, clear and consistent community engagement during planning for major transmission to assist in building and maintaining trust with local communities and to build social licence.⁹⁶ Clear and consistent community engagement helps facilitate proactive and constructive relationships between TNSPs and local communities and improves the quality of planning undertaken by TNSPs for major transmission projects through the identification of risks to timely delivery.⁹⁷

In our stage 2 final report for the TPIR we further identified that meaningful, early, high quality engagement with local communities and other stakeholders:⁹⁸

- improves stakeholder and community understanding of the costs and risks of major transmission projects,
- 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, and

⁹⁶ AEMC, Transmission planning and investment review: Stage 2 final report, 27 October 2022, pp. 20-33.

⁹⁷ Ibid.

⁹⁸ AEMC, Transmission planning and investment review, Stage 2 final report, pp. 27-28.

- provides TNSPs with opportunities to address or manage concerns raised and demonstrate to communities how TNSPs have taken their concerns and feedback into account.

During consultation for TPIR, stakeholders generally viewed early and appropriately targeted engagement as promoting community acceptance and mitigating the risk of project delays.⁹⁹ Stakeholders were, however, divided on whether additional obligations in the NER are necessary to facilitate this. Some stakeholders considered amendments to the rules to impose new obligations on TNSPs were unnecessary as existing obligations may be appropriate.¹⁰⁰ In contrast, several stakeholders considered there were opportunities for additional clarity to be provided around when and how TNSPs would engage with community groups and request input for key decisions.¹⁰¹

We considered that additional clarity and consistency can be provided through clarifying amendments in the NER, without needing to impose any materially new obligations on TNSPs.

A.2 Minister Bowen proposed a rule to improve social licence for transmission

The proposal seeks to implement the TPIR recommendations to improve social licence outcomes by clarifying that TNSPs are required to engage with local communities, and when they are required to engage. It also seeks to specify a set of minimum community engagement expectations in NER with which TNSPs must comply for ISP and REZ design projects.¹⁰²

A.3 The proposal addressed ineffective community engagement

The proposal suggested that 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. This could lead to ineffective community engagement.¹⁰³

The proposal acknowledged that ineffective community engagement by TNSPs can result in failure to obtain a 'social licence', risking timely and efficient delivery of transmission projects.¹⁰⁴

99 Submissions to the stage draft report: ENA, p. 3; PIAC, p. 7; Energy Australia, pp. 1-2; AEMO, p. 5; Re-Alliance, pp. 7-8; CEIG, pp. 6-7; AusNet Services, pp. 5-7; Transgrid, pp. 9-10.

100 Submissions to the Transmission planning and investment review: stage 2 draft report: ENA, p. 3; Engie, p.3; Origin, p.2; AGL, p.2; Tilt, p. 5.

101 Submissions to the Transmission planning and investment review: stage 2 draft report: AusNet services, pp. 5-7; RE-Alliance, pp. 7-8; PIAC, p. 7; Transgrid, p. 9; EnergyAustralia, p. 2.

102 DCCEEW, Rule change request: Ensuring consistent stakeholder engagement for ISP projects, p.1.

103 Ibid, p.2.

104 Ibid, p.1.

A.4 The proposal improves clarity and consistency

The proposal suggested amendments to the NER in order to improve clarity over who TNSPs are required to engage with as part of preparatory activities and to create consistency over how they can be expected to be engaged.

The proposed amendments aimed to:¹⁰⁵

- 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.¹⁰⁶
- 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.¹⁰⁷
- 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.¹⁰⁸
- Insert a definition of 'community engagement expectations' into the NER that is comparable to the existing expectations placed on jurisdictional planning bodies for REZs.¹⁰⁹

A.5 The process to date

On 20 July 2023, the Commission published a notice advising of its intention to initiate the rule making process in respect of the rule change request.¹¹⁰ The Commission decided to fast track this rule change request. This is because it concluded that the rule change request is consistent with relevant recommendations made by the Commission in the TPIR and adequate consultation with the public was undertaken during that review on the relevant recommendations.¹¹¹

Accordingly, the Commission published a draft rule determination on 10 August 2023 without first consulting on a consultation paper. The Commission received 24 submissions on the draft rule determination. Issues raised in submissions are discussed and responded to throughout this final rule determination. A summary of other issues raised in submissions and the Commission's response to each issue is contained in appendix D.

¹⁰⁵ Ibid, p.2.

¹⁰⁶ Paragraph (e) under the definition of preparatory activities under clause 5.10.2 of the proposed rule.

¹⁰⁷ Clause 5.15.1(b) of the proposed rule.

¹⁰⁸ Clauses 5.10.2, 5.16A.4(r) & 5.24.1(e) of the proposed rule.

¹⁰⁹ Clause 5.10.2 of the proposed rule.

¹¹⁰ This notice was published under s. 95 of the NEL.

¹¹¹ The decision to fast-track the rule change request was made under s. 96A(1)(b) of the NEL.

B REGULATORY IMPACT ANALYSIS

The Commission has undertaken a regulatory impact analysis to make our final determination.

B.1 Our regulatory impact analysis methodology

We considered a range of policy options

The Commission compared a range of viable policy options that are within our statutory powers. The Commission analysed these options: the rule proposed in the rule change request; a business-as-usual scenario where we do not make a rule; and a more preferable rule featuring amended wording to the group of stakeholders that TNSPs are required to engage, as part of preparatory activities and additional community engagement expectations.

We identified who would be affected and assessed the benefits and costs of each policy option

The Commission's regulatory impact analysis for this rule change used qualitative methodologies. It involved identifying the stakeholders impacted and assessing the benefits and costs of policy options. The depth of analysis was commensurate with the potential impacts. The Commission focused on the types of impacts within the scope of the NEO.

Table B.1 summarises the regulatory impact analysis the Commission undertook for this rule change. Based on this regulatory impact analysis, the Commission evaluated the primary potential costs and benefits of policy options against the assessment criteria. The Commission's determination considered the benefits of the options minus the costs.

Table B.1: Regulatory impact analysis methodology

ASSESSMENT CRITERIA	PRIMARY COSTS LOW, MEDIUM OR HIGH –	PRIMARY BENEFITS LOW, MEDIUM OR HIGH –	STAKEHOLDERS AFFECTED	METHODOLOGY QT = QUANTITATIVE, QL = QUALITATIVE
Outcomes for consumers	Nil	Enhanced community engagement will assist in the timely delivery of transmission to connect lower cost electricity generation. (medium benefits)	All electricity customers	QL: stakeholder feedback to assess all benefits and costs.
Emissions reduction	Nil	Enhanced community engagement helps build social licence for the transmission required to achieve Commonwealth/ state emissions reduction targets. (Medium benefits)	All electricity customers	QL: stakeholder feedback to assess impact of proposed rule on emissions trajectory.
Implementation considerations	AER may need to update guidance notes (Low costs) TNSPs aligning existing engagement with community engagement expectations (Low costs)	Rule change can apply to the next set of ISP projects, providing certainty around engagement expectations aligns with other work being done in this area.	AER, TNSPs	QL: stakeholder feedback to assess all benefits and costs.

ASSESSMENT CRITERIA	PRIMARY COSTS LOW, MEDIUM OR HIGH –	PRIMARY BENEFITS LOW, MEDIUM OR HIGH –	STAKEHOLDERS AFFECTED	METHODOLOGY QT = QUANTITATIVE, QL = QUALITATIVE
		Implementable across all jurisdictions with ISP and REZ design projects. (medium benefits)		
Principles of good regulatory practice	TNSPs aligning existing engagement with community engagement expectations (Low costs)	Community engagement is transparent and consistent across all projects, improves predictability and stability of engagement with communities (medium benefits)	TNSPs, local communities, AER	QL: stakeholder feedback to assess all benefits and costs.

C LEGAL REQUIREMENTS TO MAKE A RULE

This appendix sets out the relevant legal requirements under the NEL for the Commission to make a final rule determination.

C.1 Final rule determination and final rule

In accordance with sections 102 and 102A of the NEL, the Commission has made this final rule determination for a more preferable final rule in relation to the rule proposed by The Honourable Chris Bowen, Minister for Climate Change and Energy.

The Commission's reasons for making this final rule determination are set out in chapter 2.

A copy of the more preferable final rule is attached to and published with this final determination. Its key features are described in chapter 3.

C.2 Power to make the rule

The Commission is satisfied that the more preferable final rule falls within the subject matter about which the Commission may make rules.

The more preferable final rule falls within s. 34 of the NEL as it relates to rules regulating the activities of persons (including Registered participants) participating in the national electricity market.¹¹²

C.3 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NEL to make the final rule,
- the rule change request,
- stakeholder input received as part of consultation undertaken by the TPIR,
- submissions received during consultation on the draft determination
- the Commission's analysis as to the ways in which the final rule, which is a more preferable rule, will or is likely to better contribute to the achievement of the NEO than the proposed rule, and
- the application of the final rule to the Northern Territory.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.¹¹³

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's

¹¹² Section 34(1)(a)(iii) of the NEL.

¹¹³ Under s. 33 of the NEL and s. 73 of the NGL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy.

declared network functions.¹¹⁴ The more preferable final rule is compatible with AEMO's declared network functions because the preparatory activities under our more preferable final rule is completed by AEMO as part of planning for augmentation of the declared shared network.¹¹⁵

C.4

Making electricity rules in the Northern Territory

Test for scope of "national electricity system" in the NEO

Under the NT Act, the Commission must regard the reference in the NEO to the "national electricity system" as a reference to whichever of the following the Commission considers appropriate in the circumstances having regard to the nature, scope or operation of the proposed rule:¹¹⁶

1. the national electricity system,
2. one or more, or all, of the local electricity systems, and¹¹⁷
3. all of the electricity systems referred to above.

Test for differential rule

Under the NT Act, the Commission may make a differential rule if it is satisfied that, having regard to any relevant MCE statement of policy principles, a differential rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule.¹¹⁸ A differential rule is a rule that:

- varies in its term as between:
 - the national electricity systems, and
 - one or more, or all, of the local electricity systems, or
- does not have effect with respect to one or more of those systems

but is not a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of s. 91(8) of the NEL.

A uniform rule is a rule that does not vary in its terms between the national electricity system and one or more, or all, of the local electricity systems, and has effect with respect to all of those systems.¹¹⁹

The Commission's final determination in relation to the meaning of the "national electricity system" and whether to make a uniform or differential rule are set out in chapter 2.

¹¹⁴ Section 91(8) of the NEL.

¹¹⁵ Section 50C(1)(a) of the NEL.

¹¹⁶ Clause 14A of Schedule 1 to the NT Act, inserting section 88(2a) into the NEL as it applies in the Northern Territory.

¹¹⁷ These are specified Northern Territory systems, listed in schedule 2 of the NT Act.

¹¹⁸ Clause 14B of Schedule 1 to the NT Act, inserting section 88AA into the NEL as it applies in the Northern Territory.

¹¹⁹ Clause 14 of Schedule 1 to the NT Act, inserting the definitions of "differential Rule" and "uniform Rule" into section 87 of the NEL as it applies in the Northern Territory.

C.5 Civil penalty provisions and conduct provisions

The Commission cannot create new civil penalty provisions or conduct provisions. However, it may recommend to the Energy Ministers' Meeting that new or existing provisions of the NER be classified as civil penalty provisions or conduct provisions.

The more preferable final rule does not amend any clauses that are currently classified as civil penalty provisions or conduct provisions under the National Electricity (South Australia) Regulations.

The Commission does not propose to recommend to the Energy Ministers that any of the proposed amendments made by the more preferable final rule be classified as civil penalty provisions or conduct provisions.

C.6 Review of operation of the rule

The more preferable final rule does not require the Commission to conduct a formal review of the operation of the rule. The Commission may however self-initiate a review of the operation of the rule at any time if it considers such a review would be appropriate, pursuant to section 45 of the NEL.

D SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

Table D.1: Summary of other issues raised in submissions

ISSUE	STAKEHOLDER(S)	FEEDBACK	RESPONSE
Establishing priority infrastructure regions	APA, p. 4.	APA considers that prior to the selection of priority regions for energy infrastructure projects, State and Local governments should incorporate energy needs into State and Local government economic development plans. In doing so, community feedback should be considered to establish energy development regions.	<p>The Commission can not make rules in relation to criteria to identify priority energy infrastructure regions that have been established under a jurisdictional framework.</p> <p>This may be considered in broader work discussed in section 1.3. We encourage stakeholders to engage with these workstreams.</p>
Greater regional coordination	APA, p. 4, Central NSW Joint Organisation, pp. 3-4, EUAA, p. 4.	<p>These stakeholders suggested that regional coordination between developers and transmission businesses should be improved. This would allow knowledge and key learnings to be shared, and good practice normalised along the entire value chain.</p> <p>They considered that coordinated regional messaging across the entire priority region would benefit communities and the project proponents.</p> <p>Stakeholders recommended a coordinated region-wide cumulative impact assessment of</p>	<p>The Commission acknowledges improved regional coordination is beneficial.</p> <p>The Commission has made a submission to the community engagement review that is being led by the AEIC. Our submission suggested that the review focus on creating consistency across infrastructure projects, streamlining engagement processes and facilitating information between stakeholders. This supports better regional</p>

ISSUE	STAKEHOLDER(S)	FEEDBACK	RESPONSE
		all projects. Stakeholders considered that it is important to identify the impacts of projects on other resources and infrastructure like mining, sewage and transport.	<p>coordination.</p> <p>The Commission is not able to make a rule that would consider the cumulative impacts of projects that are outside of its remit.</p> <p>As discussed in section 1.3 we also acknowledge broader work being undertaken by other entities which may support greater regional coordination.</p>
Alternatives to transmission	Central NSW Joint Organisation, p. 4.	The Central NSW Joint Organisation suggested the AEMC consider a more distributed model including incentivising domestic batteries, scaling up electric vehicles and supporting electrification of homes and businesses.	<p>To achieve Australia's emissions reduction targets, a range of solutions will likely be required to be implemented concurrently. This includes network and non network solutions.</p> <p>The Commission considers that transmission is a necessary component to assist in meeting Australia's emissions reduction targets. Alternatives to transmission are outside the scope of this rule change.</p>
Introduction of Competition	Iberdrola, p. 5.	Iberdrola suggested that extending competitive models across the NEM would assist in meeting emission reductions and	The Commission undertook an initial examination of contestability for major transmission projects in the

ISSUE	STAKEHOLDER(S)	FEEDBACK	RESPONSE
		renewable generation targets in a timely manner.	<p>Transmission planning and investment review. We published a directions paper last year. See AEMC, Directions paper - Transmission Planning and Investment –Contestability, 24 November 2022.</p> <p>An examination of contestability is outside the scope of this rule change.</p>
Guidance on costs to build and maintain social licence	RE- Alliance, p. 4, Solar Citizens, p. 3.	RE-Alliance and Solar Citizen suggested the Commission clarify what RIT-T funds can be used for and how this would work within the framework in respect of community benefit sharing and other social licence costs.	<p>The AER has released a social licence directions paper which provides an overview of what the AER considers is expenditure to build social licence. Please find the directions paper here.</p>

Source: Submissions to the draft determination.

ABBREVIATIONS AND DEFINED TERMS

AEIC	Australian Energy Infrastructure Commissioner
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CBA	Cost benefit analysis
Commission	See AEMC
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DNSP	Distribution network service providers
ISP	Integrated System Plan
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
NT Act	<i>National Electricity (Northern Territory) (National Uniform Legislation) Act 2015</i>
Proponent	The individual / organisation who submitted the rule change request to the Commission
PACR	Project assessment conclusions report
PADR	Project assessment draft report
REZ	Renewable energy zone
RIT-T	Regulatory investment test for transmission
TNSP	Transmission network service provider
TPIR	Transmission planning and investment review