

Our Ref: 18,268,566

23 April 2025

Dr Collette Burke  
**Interim Chief Executive Officer**  
Marinus Link Pty Ltd  
PO Box 721 Hobart, TAS 7001

Sent by email to: [REDACTED]

Dear Dr Burke

**Re: Marinus Link – AER Guidance to support a Final Investment Decision**

I am writing to you regarding your letter of 20<sup>th</sup> February 2025 where you sought advice as to whether the AER can provide guidance to the shareholders of Marinus Link Pty Ltd (MLPL). The advice sought relates to whether the AER can provide guidance regarding the likely progress of the AER's revenue determination for MLPL at the time of our initial draft decision in May 2025.

Your letter sets out the possible scope of AER guidance to address uncertainty at the time of the Final Investment Decision (FID).

As noted in your letter, due to uncertainty over final costings the AER will not be providing an assessment of the prudence and efficiency of approximately 54 percent of the forecast construction costs (balance of works costs) for Marinus Link at the initial draft decision in May 2025.

Drawing on the AER's Expenditure Forecast Assessment Guideline<sup>1</sup> and our regulation of actionable Integrated System Plan (ISP) projects guidance note<sup>2</sup>, the AER can provide feedback on how we will approach the initial and supplementary draft decisions, including:

- AER's approach to reviewing the balance of works costs
- AER's approach to reviewing risk allowance including the information the AER will expect to see in the MLPL's revised revenue proposal
- governance and risk management principles the AER will expect MLPL to demonstrate in the revised revenue proposal
- observations of the AER's observer overseeing procurement processes to date.

---

<sup>1</sup> AER, [Expenditure forecast assessment guideline](#), 29 November 2013 (updated 16 October 2024).

<sup>2</sup> AER, [Guidance Note: Regulation of actionable ISP projects](#), March 2021.

## **AER's assessment of capital expenditure**

To assess proposed expenditure, we apply a range of techniques that typically involve comparing the proposal to estimates we develop from relevant information sources. These techniques may include:

- economic benchmarking—productivity measures used to assess a business's efficiency overall,
- cost benefit analysis—assessing whether the business has chosen spending options that reflect the best value for money,
- project review—a detailed engineering examination of specific proposed projects or programs
- methodology review—examining processes, assumptions, inputs and models that the business used to develop its proposal
- governance and policy review—examining the business's strategic planning, risk management, asset management and prioritisation.

The Expenditure Forecast Assessment Guideline sets out the principles guiding our reliance on assessment techniques and a business's forecasting approach. These include validity, accuracy and reliability, parsimony, robustness, transparency and fitness for purpose.

While the AER's assessment of the prudence and efficiency of proposed capital expenditure will be decided over two draft decisions, the methodology and principles relied upon to inform our assessment will be consistent across both decisions.

## **Project governance, procurement, risk and cost estimates**

The AER's Guidance Note: Regulation of actionable ISP projects (the guidance note) outlines our expectations of transmission network service providers (TNSPs) regarding project management, procurement, project risks and cost estimates. The guidance note sets out information the AER requires from TNSPs to inform our assessment in relation to each of these matters. Key points are set out below.

### *Project management*

Our initial and supplementary draft decisions will have regard to the following project management principles:

- clear definitions of roles and responsibilities
- clear lines of accountability for key decisions, particularly around project risks and decisions that could result in cost overruns or delays
- effective project controls to manage significant variations in scope, cost and/or risk profile
- regular review points and effective gateway decisions for decision-makers, combined with regular reporting around general project progress against budget and schedule
- formalised and transparent cross-functional arrangements that promote effective and efficient collaboration.

### *Procurement:*

The AER expects MLPL will demonstrate an overview of tender processes for the balance of works costs in the revised revenue proposal. Our initial and supplementary draft decisions will consider the procurement strategy, specifically whether the strategy has delivered value for money outcomes by promoting the following principles:

- maximise competition and contestability
- ensure accountability commensurate with appropriate levels of authority and responsibility
- promote the highest standards of probity through the application of integrity, ethical behaviour, fairness and transparency in the conduct of the procurement processes
- leverage synergies with related work components or even other projects where synergies in scope exist or where risks can be diversified.

We expect MLPL to demonstrate how the procurement process and outcome has promoted these principles and to demonstrate why the procurement approach is prudent and efficient.

As noted in the AER's issue paper<sup>3</sup>, the AER observed deliberations of MLPL's Evaluation Steering Committee that evaluated tenders for submarine cables and converter stations. The AER's representative was 'satisfied that the process was conducted to a high standard, sustained competitive tension, and was consistent with industry norms and government procurement requirements.'<sup>4</sup>

The AER's observer status was maintained for the balance of works procurement process and their report will be an important aspect of our supplementary draft decision for balance of works costs.

#### *Project risks:*

The economic regulatory framework incentivises TNSPs to proactively identify and manage project risks ex-ante. We expect MLPL to comprehensively and transparently identify and assess the different project risks for which it is seeking a cost allowance. This will aid us in determining efficient and prudent expenditure.

In evaluating each residual project risk MLPL may seek an allowance for, it will be important to define the risk identified, estimate the potential cost impacts, estimate the likelihood of occurrence of the consequential costs being incurred, and identify any mitigation strategies. In the revised revenue proposal, we expect MLPL to demonstrate how its risk assessment represents reasonable and realistic expectations of risks that could be encountered.

When accounting for project risks, we do not provide a project risk allowance that completely covers all potential cost impacts to the project.<sup>5</sup> We expect that most projects have symmetrical risk distributions, meaning that the likelihood of projects being over or underbudget is approximately equal. However, it may be prudent to include specific and appropriate contingency costs for asymmetric risks, where the likelihood of programs being over-budget is greater than the likelihood of being underbudget.<sup>6</sup> We only approve the incremental revenue for the expenditure reasonably required for the project by an efficient and prudent operator managing and mitigating the identified risks.<sup>7</sup>

---

<sup>3</sup> AER, [Issues paper: Marinus Link – Stage, Part B \(construction costs\)](#), March 2025

<sup>4</sup> AER, [Issues paper: Marinus Link – Stage, Part B \(construction costs\)](#), March 2025, p 17.

<sup>5</sup> AER, [Guidance Note: Regulation of actionable ISP projects](#), March 2021, p. 17

<sup>6</sup> AER, [Guidance Note: Regulation of actionable ISP projects](#), March 2021, p. 16-17

<sup>7</sup> NER, cl. 6A.8.2(g)(4).

An important consideration regarding risk costs is confidence levels. Confidence levels refer to the probability of the cost not being exceeded.<sup>8</sup> P50 is the level where the cost will not be exceeded 50% of the time, and P70 is the level where the cost will not be exceeded 70% of the time. The AER's Transgrid HumeLink Stage 2 CPA determination considered that P50, as opposed to P70 as proposed by Transgrid, was a more appropriate point to estimate risk costs as it is the point where risk is shared equally between Transgrid and consumers.<sup>9</sup> This is the approach we have taken for other decisions including Project EnergyConnect.

**Cost estimates:**

Our draft decision for the balance of works will be in part based on our assessment of the prudence and efficiency of MLPL's forecast expenditure. As such, MLPL's cost estimates will need to have a sound basis.

For the balance of works cost estimates we expect to the greatest extent possible they have a strong basis and are accompanied by supporting evidence, are not overly conservative and reflect the likelihood of any contingencies occurring. They should also be trend-based, acknowledging that there may be limited precedent to draw from given the nature of Marinus Link, and be based on up-to-date information and/or data.

**Closing**

The AER appreciates the constructive engagement to date regarding the revenue determination process. Should you wish to discuss any of the matters raised in this letter, please feel to contact Dr Kris Funston, Executive General Manager, Network Regulation at [REDACTED]

Yours sincerely

[REDACTED]

Anthea Harris  
CEO

---

<sup>8</sup> Australian Department of Finance, [Defining P50 and P80](#), January 2024.

<sup>9</sup> AER, [Determination: Transgrid's HumeLink Stage 2 Delivery Contingent Project Application](#), August 2024, p. 32