

1 July 2025

Mr Arek Gulbenkoglou  
General Manager, Network Expenditure  
Australian Energy Regulator  
GPO Box 520  
Melbourne, VIC, 3001  
Email: AERenquiry@aer.gov.au

Dear Arek

**Re: AER's Capital Expenditure Incentive Guideline Review – Draft Guideline**

Marinus Link Pty Ltd (MLPL) welcomes the opportunity to make this submission in response to the AER's Capital Expenditure Incentive Guideline Review – Draft Guideline (draft CEIG).

As you know, MLPL is currently working towards the construction phase of Marinus Link, which is an actionable ISP project that is expected to deliver significant net benefits to customers. The regulatory framework applying to actionable ISP projects has been an area of particular focus in recent years, principally because these projects have a significantly different expenditure and risk profile to the 'BAU' capital expenditure on which the current regulatory framework was designed. For that reason, recent Rule changes have focused on:

- Treating actionable ISP projects as contingent projects, including making separate determinations for 'early works' capital expenditure;
- Applying a financeability test to ensure that actionable ISP projects can be financed;
- Separately applying the ex post review to each actionable ISP project; and
- Allowing TNSPs to propose that the Capital Expenditure Sharing Scheme (**CESS**) should not apply or should be varied from the default 70/30 sharing ratio.

In this context, the draft CEIG is a response to a concern raised by the AEMC that the separate application of the ex post review to actionable ISP projects creates a potentially anomalous situation in which:

- The AER concludes that a cost overspend is prudent and efficient; and
- A CESS penalty is applied to that overspend amount.

In other words, the current framework provides for financial penalties to be applied in circumstances where the capital expenditure is known to be efficient. We describe this outcome as anomalous because it conflicts with the Rules requirements that guide the design of the CESS. In particular, clause 6A.6.5A(c)

requires that the CESS must be designed to provide rewards or penalties that (1) reflect improvements or declines in the TNSP's efficiency, and (2) are commensurate with the TNSP's efficiency performance. Evidently, if the CESS applies a penalty to efficient capital expenditure, then the design fails to comply with the Rules requirements.

In the draft CEIG, the AER comments that this situation 'may not be reasonable'. However, the AER stops short of committing to remove CESS penalties in those cases where the capital expenditure is found to be efficient in an ex post review.

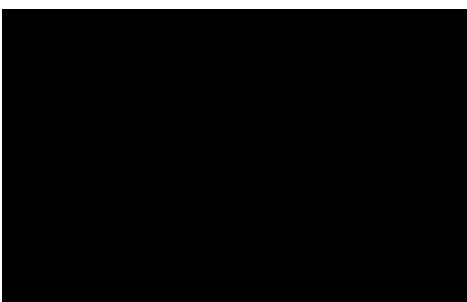
MLPL supports the application of financial incentive to drive efficient performance. By the same token, however, it is important that the application of any incentive scheme operates in accordance with its intended purpose. By setting an incentive rate that is too high, TNSPs will be exposed to financial risks that cannot be managed. Ultimately, this situation will feed through to a higher cost of capital and/or reduced levels of investment, both of which are contrary to the interests of consumers.

Currently, the draft CEIG would not remove the possibility that CESS penalties will apply to capital expenditure that is known to be efficient. MLPL considers that this issue should be resolved by the AER strengthening its commitment to remove CESS penalties where expenditure is found to be efficient. MLPL notes that that commitment does not necessarily eliminate a role for the CESS, but it does require a clear demarcation between the operation of the CESS and the ex post review.

### Closing

MLPL is grateful for the opportunity to make this submission to the AER's draft CEIG, which provides an important opportunity to clarify how the incentive mechanisms should apply to ISP projects. In making this submission, MLPL reiterates its commitment to incentive regulation and to delivering Marinus Link prudently and efficiently for the benefit of consumers. If you would like to meet to discuss further, please feel free to contact me at [REDACTED]

Yours sincerely,

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Prajit Parameswar  
**Chief Commercial Officer**