

# Central-West Orana Renewable Energy Zone

## Transgrid Non-Contestable Augmentations Project Deed



Energy Corporation of New South Wales (**EnergyCo**)

NSW Electricity Networks Operations Pty Limited as trustee for NSW Electricity Networks Operations Trust, trading as 'Transgrid' (**Transgrid**)

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# Central-West Orana Renewable Energy Zone – Transgrid Non-contestable Augmentation Project Deed

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**Date** 31 January 2025

**Parties** **Energy Corporation of New South Wales** (ABN 13 495 767 706), constituted by the *Energy and Utilities Administration Act 1987* (NSW), in its capacity as the infrastructure planner under the EII Act for the Central-West Orana Renewable Energy Zone (**EnergyCo**); and

**NSW Electricity Networks Operations Pty Limited** (ACN 609 169 959) **as trustee for NSW Electricity Networks Operations Trust** (ABN 70 250 995 390), trading as ‘Transgrid’ (**Transgrid**)

**Background**

- A On 5 November 2021, the Minister declared the Renewable Energy Zone as a renewable energy zone under section 19 of the EII Act.
- B The Minister has appointed EnergyCo as Infrastructure Planner for the Renewable Energy Zone.
- C On 4 June 2024, the Consumer Trustee authorised the RNI Network Operator under section 31(1) of the EII Act to carry out the RNI Project. EnergyCo and the RNI Network Operator have entered or will enter into the RNI Project Deed to enable the RNI Network Operator to carry out the RNI Project.
- D Transgrid is the “primary transmission network service provider” and “jurisdictional planning body” (as each of those terms are defined in the NER) for the NSW transmission system and is a “transmission network service provider” (as defined in the NER) in respect of Transgrid’s Network.
- E EnergyCo requires Transgrid to carry out the TNA Project to facilitate the connection of the RNI Assets to Transgrid’s Network and to increase the capability of Transgrid’s Network to transmit electricity from the Renewable Energy Zone.
- F On 4 June 2024, the Consumer Trustee authorised Transgrid under section 31(1) of the EII Act to carry out certain aspects of the TNA Project.
- G Transgrid will perform the TNA Project in accordance with the terms and conditions of this Deed.

This Deed witnesses as follows:

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## General terms

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed unless the contrary intention appears:

**Abandonment** means the abandonment of all or substantially all of the TNA Project by Transgrid, except to the extent Transgrid is relieved of the obligation to carry out the TNA Project (or any part of it) by an express provision of this Deed.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**AEMO** means the Australian Energy Market Operator.

**Anticipated Satisfaction Date** means, in respect of a Commencement Condition, the date by which it is anticipated that the Commencement Condition would be satisfied or waived, being the date specified next to that Commencement Condition in Schedule 1, or such other date as the parties may agree.

**Applicable Laws** means:

- (a) Approvals;
- (b) the EII Act, the EII Regulations, the NEL and the NER; and
- (c) any other Law (whether of the Commonwealth, of a State or Territory or of a local government) applying in the State or Territory in which the work under this Deed or any part thereof is carried out, and any ordinances, regulations, by-laws, orders and proclamations under those Laws.

**Approval** means:

- (a) any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, declaration, permit, ruling, statutory required policy of insurance, accreditation, waiver, authority or exemption from (and any renewal or variation of any of them), by or with or any other lawful requirement of an Authority, including any plans, strategies or protocols required to be approved and implemented under any such Approval; or



- (b) in relation to anything which will be fully or partly prohibited or restricted by law if an Authority intervenes or acts in a way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

**Associates** means, in relation to a person:

- (a) each of that person's holding companies or subsidiaries (each as defined in the Corporations Act), or Related Bodies Corporate;
- (b) each of that person's sub-contractors (of any tier);
- (c) all officers, employees, authorised agents, sub-contractors and professional advisers engaged or employed by or on behalf of that person and any person or entity referred to in paragraph (a) or (b) above; and
- (d) any other person engaged or employed by or on behalf of that person in the performance of its obligations under this Deed,

but, in respect of EnergyCo, does not include:

- (e) the Independent Certifier; or
- (f) the RNI Network Operator or any of its Associates.

**Augmentation** means any addition, increase, extension, expansion, augmentation, modification or change (other than a like-for-like replacement) to or of the TNA Assets, the other parts of Transgrid's Network relevant to the Connection and operation of the RNI Assets or either of their capacity or capability, which is not a Variation.

**Augmentation Authorisation** has the meaning given in clause 24.8(c).

**Augmentation Documents** means the following or as otherwise agreed by the parties for the purposes of an Augmentation:

- (a) an Augmentation works deed for the design and construction of the Augmentation;
- (b) an amendment deed to amend this Deed to incorporate the Augmentation, its operation and maintenance, once constructed; and
- (c) any ancillary documents that EnergyCo (acting reasonably) considers necessary to give effect to the Augmentation.

**Augmentation Proposal** means an Augmentation proposal prepared in accordance with clause 24.6.

**Augmentation Proposal Request** has the meaning given in clause 24.5(a).

**Augmentation Revenue Proposal** has the meaning given in clause 24.8(e)(i).

**Authority** means:

- (a) any government, governmental, semi-governmental or judicial entity or authority (whether autonomous or not), including any self-regulatory organisation established under statute, AEMO, Transgrid acting as a system operator or service provider to AEMO under clause 4.3.3 of the NER, the Regulator, Australian Energy Market Commission and Australian Competition and Consumer Commission, provided that for the avoidance of doubt, while acting in any capacity other than as a system operator or service provider to AEMO under clause 4.3.3 of the NER, Transgrid is not an Authority under this definition; and

- (b) any other statutory, public or other authority or body having jurisdiction over Transgrid or anything in connection with the TNA Site or the Transgrid Activities.

**Background Intellectual Property Rights** means, with respect to a party, the Intellectual Property Rights:

- (a) owned by such party before the Execution Date or which such party had the right to use before the Execution Date; or
- (b) developed by such party after the Execution Date independently of this Deed.

**Bank Bill Rate** means the average bid rate displayed at or about 10.30am (Sydney time) on the first Business Day of each month on the Reuters screen BBSY page (or any page or service which replaces it) for bills of exchange with tenor of 90 days, as updated from time to time in accordance with clause 1.9.

**Barigan Creek Switching Station** has the meaning given to the term “Barigan Creek Switching Station” as defined in the BCSS Sale and Purchase Deed, which will connect the RNI Assets to Transgrid’s Network and be:

- (a) in the case of the BCSS Infrastructure Assets, designed and constructed by the RNI Network Operator under the RNI Project Deed and RNI Interface Deed;
- (b) in the case of the BCSS Site, acquired by ETMHC as contemplated by the BCSS Sale and Purchase Deed and leased to Transgrid under the Network Lease;
- (c) Connected to Transgrid’s Network, commissioned, operated and maintained by Transgrid as part of the TNA Connection Project; and
- (d) in the case of the BCSS Infrastructure Assets, acquired by Transgrid as contemplated in the BCSS Sale and Purchase Deed.

**Bayswater to Liddell Upgrade Works** means TNA Separable Portion 1.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**BCSS Defect** has the meaning given to the term “Defect” in the RNI Interface Deed.

**BCSS Defects Liability Period** has the meaning given to the term “Defects Liability Period” in the RNI Interface Deed.

**BCSS Infrastructure Assets** has the meaning given to the term “Infrastructure Assets” as defined in the BCSS Sale and Purchase Deed.

**BCSS Purchase Price** has the meaning given to the term “Purchase Price” as defined in the BCSS Sale and Purchase Deed.

**BCSS Sale and Purchase Deed** means the deed titled “CWO REZ – Barigan Creek Switching Station Sale and Purchase Deed” between Transgrid, EnergyCo and the RNI Network Operator dated on or about the Execution Date.

**BCSS Sale Completion** has the meaning given to the term “Completion” as defined in the BCSS Sale and Purchase Deed.

**BCSS Site** has the meaning given to the term “Land Assets” as defined in the BCSS Sale and Purchase Deed.

**BCSS Temporary Fix** has the meaning given to the term “Temporary Fix” in the RNI Interface Deed.

**Biodiversity Offsets** means the biodiversity offsets required under the EPBC Act.

**Business Day** means a day which is not a Saturday, Sunday or a public holiday in New South Wales, Australia or 27, 28, 29, 30 and 31 December.

**CESS** means the Capital Expenditure Sharing Scheme as amended from time to time administered by the Regulator.

**Change in Law** means:

- (a) a change to (including a repeal of) an Applicable Law in Australia; or
- (b) the enactment of a new Applicable Law in Australia,

in each case occurring after the Execution Date, but does not include:

- (c) any changes to (including repeal of) any Applicable Law or any enactment or implementation of a new Applicable Law, relating to tax; or
- (d) any changes to (including overturning) or any new decisions of any court.

**Claim** means any claim, allegation, debt, cause of action, liability, loss, proceeding, demand, action, dispute or proceeding of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether arising in contract, tort (including breach of statutory duty and negligence), equity or otherwise.

**Commencement Condition** means a condition set out in Schedule 1.

**Commencement Condition Sunset Date** means, in respect of a Commencement Condition, the date specified as the ‘Commencement Condition Sunset Date’ next to that Commencement Condition in Schedule 1, or such other date as the parties may agree.

**Commissioning of BCSS Stage 1** means TNA Separable Portion 5A.

**Commissioning of BCSS Stage 2** means TNA Separable Portion 5B.

**Commissioning of BCSS Stage 3** means TNA Separable Portion 5D.

**Commissioning Tests** means, in relation to an item of the TNA Assets, a process by which that asset is approved for active service based on observed or measured operation and, if the Technical Requirements set out requirements for how commissioning tests should be undertaken, a process undertaken in accordance with the Technical Requirements.

**Community and Stakeholder Engagement Plan** means the community and stakeholder engagement plan required by clause 9.2(b), which is a Project Plan.

**Compensation Event** means [REDACTED].

**Connect** has the meaning given in the NER, and **Connection** and **Connected** have a corresponding meaning.

**Consequential or Indirect Loss** has the meaning given in clause 27.5.

**Construction Environmental Management Plan** means the construction environmental management plan relating to the Transgrid Activities to be performed during the Delivery Phase and that is required to comply with the Technical Requirements, which is a Project Plan. The Construction Environmental Management Plan must incorporate the environmental management plan referred to in clause 7.1(d).

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Cost Recovery Declaration** means a “cost recovery declaration” as defined in clause 54B of the EII Regulations in respect of the TNA Project.

**COVID-19 Occurrence** means an event which:

- (a) arises from a COVID-19 (or any other strain evolving therefrom) epidemic or pandemic;
- (b) occurs in the location where the relevant components of Transgrid’s works under this Deed (including the manufacture of the apparatus, equipment, machinery, materials, plant, systems and any other thing which is procured or used by a Subcontractor to carry out the works required under this Deed) are being carried out;
- (c) is necessitated by, or arises directly from compliance with:
  - (i) a Law; or
  - (ii) directions from an Authority (which are generally given effect to by contractors and subcontractors, including suppliers, within the construction industry throughout the region where the event occurs); and
- (d) is not a Known COVID-19 Impact.

**Cure Period** means in respect of a Relevant Default, the period of time specified in the Cure Plan to:

- (a) cure the Relevant Default or if the Relevant Default cannot be cured, to mitigate the adverse effects of the Relevant Default and to ensure that the Relevant Default does not recur; and
- (b) demonstrate such cure or mitigation strategy to the reasonable satisfaction of the non-defaulting party in accordance with the tests (if any) set out in the Cure Plan,

and means in respect of a Financial Default, [REDACTED] after receipt of a Default Notice in relation to the Financial Default.

**Cure Plan** means a document setting out:

- (a) a feasible, reasonable and practical program to:
  - (i) cure a Relevant Default; or
  - (ii) if the Relevant Default cannot be cured, details the actions to be taken by the party to mitigate the adverse effects of the Relevant Default and to ensure that the Relevant Default does not recur;
- (b) the relevant Cure Period; and

- (c) specifications of tests which are reasonably necessary to show that the Relevant Default has been cured or mitigated (if applicable).

**Cut in to BCSS** means TNA Separable Portion 4.

**D&C Contract** means the agreement between Transgrid and the D&C Contractor with respect to the design and construction of the TNA Works or relevant parts of them.

**D&C Contractor** means the counterparty to the D&C Contract (being the party that is not Transgrid).

**Damages** means all liabilities, injuries, expenses, losses, damages and costs of any nature (including legal costs on a full indemnity basis and whether incurred by or awarded against a party).

**Date for Completion Stage** means:

- (a) in respect of Bayswater to Liddell Upgrade Works, the Date for Practical Completion of that TNA Separable Portion; and
- (b) in respect of Mount Piper to Wallerawang Upgrade Works, the Date for Practical Completion of that TNA Separable Portion.

**Date for Practical Completion** means, for a TNA Separable Portion [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

**Date of Connection Completion** has the meaning given in the RNI Interface Deed.

**Date of Construction Completion** has the meaning given in the RNI Interface Deed.

**Date of Practical Completion** means:

- (a) in respect of a TNA Separable Portion that forms part of the TNA Upgrade Project, Facilitation of TL79 Over-crossing or Cut in to BCSS, the date on which Practical Completion of that TNA Separable Portion has been achieved under clause 18.1; and

- (b) in respect of a TNA Separable Portion that forms part of the TNA Connection Project (other than Cut in to BCSS and Facilitation of TL79 Over-crossing), the date stated in the certificate of Practical Completion for the TNA Separable Portion issued by the Independent Certifier under clause 18.2, or as determined pursuant to a binding dispute resolution process.

**Deed** means this project deed comprising the General Conditions, the schedules and any other documents expressly incorporated into this Deed by the General Conditions.

**Default** means a Performance Default or a Financial Default.

**Default Notice** has the meaning given in clause 26.1.

**Defect** includes:

- (a) defect, shrinkage, movement, error, omission, deficiency or other imperfection in TNA Works in respect of, or arising from, any cause including design, materials or workmanship;
- (b) any aspect of the TNA Works, or any part thereof, which is not in accordance with the requirements of this Deed or the RNI Interface Deed (including a breach of any express warranty or non-compliance with any performance level or performance requirement stated in this Deed);
- (c) any physical damage to the TNA Works, or any part thereof, resulting from any such defect, deficiency, shrinkage, fault, omission or non-compliance; and
- (d) any other condition or event stated in this Deed to constitute a 'Defect',

but excludes a BCSS Defect.

**Delay Costs** has the meaning given in clause 21.3(a).

**Delivery Phase** means the period commencing on the Execution Date and ending on the Last Date of Practical Completion.

**Delivery Plan** means the delivery plan for each TNA Separable Portion set out in Schedule 2 as updated from time to time in accordance with this Deed.

**Design Documentation** means the design documentation (including drawings, specifications and other information, samples, models, patterns and the like) necessary or required for or created in the performance of the TNA Project.

**Determined Service Payment** or **DSP** means the amount determined in a Revenue Determination to be payable by the Scheme Financial Vehicle to Transgrid in carrying out the TNA Project (or any part of it).

**Direction Breach** has the meaning given in clause 26.3(f).

**Dispose** means assign, novate, transfer or otherwise dispose of any legal or equitable interest, either in whole or in part, whether by sale, lease, declaration or creation of a trust, or otherwise, and **Disposal** will be construed accordingly.

**Dispute** has the meaning given in clause 28.1.

**DSP Adjustment** means an adjustment to the Determined Service Payments through a Revenue Determination Review.

**Early Development Activities** has the meaning given in clause 13.1(a).

**Early Development Activities Cessation Date** means the later of:

- (a) the date that Transgrid receives an initial Revenue Determination in respect of the TNA Project; and
- (b) 29 January 2027.

**EII Act** means the *Electricity Infrastructure Investment Act 2020* (NSW).

**EII Guidelines** means any guidelines published in accordance with the EII Act or EII Regulations.

**EII Regulations** means the *Electricity Infrastructure Investment Regulation 2021* (NSW) and any other regulations made under the EII Act.

**Encumbrance** means:

- (a) a security interest, as defined in the *Personal Property Securities Act 2009* (Cth);
- (b) any other mortgage, pledge, lien or charge;
- (c) an easement, restrictive covenant, caveat or similar restriction over property; or
- (d) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property,

and **Encumber** will be construed accordingly.

[REDACTED]

[REDACTED]

[REDACTED]

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**EnergyCo Remedial Action** has the meaning given in clause 26.4.

**EnergyCo's Representative** means [REDACTED] or any other person from time to time appointed by EnergyCo to replace that person in accordance with clause 10.3(b).

**EnergyCo Variation Request** has the meaning given in clause 23.1(a).

**EnergyCo WHS Requirements Specification** means the document titled “WHS Requirements” dated November 2024 provided by EnergyCo to Transgrid before the Execution Date.

**Environmental Management Documents** means the Operations Environmental Management Plan and all other documents required under the Planning Approvals in relation to the operations, upgrade and decommissioning activities performed by or on behalf of Transgrid to which the Planning Approvals relate.

**EOD Cure Breach** has the meaning given in clause 26.3.

**EP&A Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**EPBC Act** means the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).

**EPBC Act Approval** means the Commonwealth Minister for the Environment's Approval under the EPBC Act in respect of the TNA Project or one or more TNA Separable Portions (as applicable), and includes all:

- (a) conditions to such Approval; and
- (b) documents incorporated by reference,

as the Approval may be modified or clarified from time to time.



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11

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**General Conditions** means these general conditions comprising clauses 1 to 38 (inclusive).

**Good Industry Practice** means:

- (a) the exercise of the degree of skill, care, prudence, foresight and operating practice which would reasonably and [REDACTED] from a Relevant Contractor;
- (b) compliance with applicable Standards, being the Standards specified or referred to in this Deed or, if this Deed does not specify Standards, those Standards as would ordinarily be applied by a Relevant Contractor in the circumstances;
- (c) compliance with Applicable Laws; and
- (d) compliance with “good electricity industry practice” as defined in the NER.

**GST** has the meaning given in the GST Legislation.

**GST Amount** has the meaning given in clause 35(d).

**GST Legislation** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any related Act or regulation that is enacted to validate, recapture or recoup such tax.

[REDACTED]

**Independent Certifier** means the independent certifier engaged by EnergyCo and the RNI Network Operator for the purpose of the RNI Project Deed, being at the Execution Date GHD Pty Ltd (ABN 39 008 488 373) and Jacobs Group (Australia) Pty Ltd (ABN 37 001 024 095).

**Infrastructure Planner** has the meaning given in the EII Act.

**Initiation Notice** has the meaning given in clause 24.2.

**Insolvency Event** means, in relation to a person, the occurrence of any of the following events:

- (a) an application is made (other than for a frivolous or vexatious reason) for the winding up or deregistration of a person and, where an application has been made for the dismissal or withdrawal of the application for winding up within 10 Business Days, and the application is not dismissed or withdrawn within 30 Business Days;
- (b) an order is made for the winding up of a person, except for the purpose of a reconstruction, amalgamation, merger or consolidation;

- (c) a person passes a resolution for its winding up or deregistration, except for the purpose of a reconstruction, amalgamation, merger or consolidation;
- (d) a receiver, receiver and manager, liquidator, provisional liquidator, compulsory manager trustee for creditors or in bankruptcy or analogous person is appointed to take possession of any property of a person;
- (e) in the case of Transgrid, the holder of a Security Interest takes (or appoints an agent to take) possession of any property of Transgrid or otherwise enforces its Security Interest;
- (f) a person or any other person appoints an administrator to the person, or takes any step to do so;
- (g) a person:
  - (i) suspends payment of its debts (other than as the result of a failure to pay a debt or Claim which is the subject of a good faith dispute);
  - (ii) ceases or threatens to cease to carry on all or a material part of its business;
  - (iii) is or states that it is unable to pay its debts; or
  - (iv) is deemed insolvent by virtue of its failure to comply with a statutory demand, which is not withdrawn or set aside within 10 Business Days;
- (h) a person enters into a readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of or a composition with its creditors, except for the purposes of a solvent reconstruction or amalgamation; or
- (i) anything occurs that has a substantially similar effect to any of the events set out in paragraphs (a) to (h) above.

**Intellectual Property Rights** means any intellectual or industrial property rights, whether registered or unregistered, including:

- (a) all patents, trademarks, copyright, designs, trade secrets, circuit layout rights, know-how, domain names and rights in confidential information (including the right to enforce an obligation to keep information confidential);
- (b) all licences and other rights to use or grant the use of any of the foregoing or to be the registered proprietor or user of any of the foregoing;
- (c) applications for or right to apply for registration of any of the intellectual property rights set out in paragraph (a) of this definition; and
- (d) any other forms of protection of a similar nature or having equivalent or similar effect to any of the rights set out in paragraphs (a) to (c) of this definition,

but excluding Moral Rights.

**Intended Purpose** means the intended purpose having regard to:

- (a) EnergyCo's intention that the TNA Works will be used for the purposes set out in the Technical Requirements, and which may be:
  - (i) upgraded, augmented, extended and expanded to the extent described in the Technical Requirements; and

- (ii) connected to or integrated with other *Facilities* and *Networks* to the extent contemplated in this Deed;
- (b) any purpose, intended purpose or intended use stated in, contemplated by or reasonably ascertainable from this Deed, including:
  - (i) the Technical Requirements; and
  - (ii) the requirement that the TNA Works, when completed, and the TNA Assets will be designed and constructed in compliance with all health and safety requirements of the WHS Legislation; and
- (c) (to the extent relevant for determining the purpose, intended purpose or intended use in connection with a Variation) any document provided by EnergyCo to Transgrid specifically in connection with the Variation; and
- (d) clause 5.4.

**Interface IP** has the meaning given in clause 32.2(b).

**Interface Requirements** has the meaning given in the RNI Interface Deed.

[REDACTED]

**Known COVID-19 Impact** means the impact of COVID-19, including impacts from laws, and health and safety implications arising from COVID-19 which are existing or known (or would reasonably be expected to have been known by a competent experienced contractor) as at the Execution Date.

**Last Date of Practical Completion** means the Date of Practical Completion of the last TNA Separable Portion to achieve Practical Completion.

**Latent Conditions** means:

- (a) physical conditions on the TNA Site or its surroundings, including artificial things but excluding weather conditions, which differ materially from the physical conditions which should reasonably have been anticipated by Transgrid at the Execution Date if Transgrid had:
  - (i) examined all information made available in writing by EnergyCo to Transgrid prior to the Execution Date;
  - (ii) examined all information relevant to the risks, contingencies and other circumstances having an effect on the TNA Project and obtainable by the making of reasonable enquiries; and
  - (iii) inspected the TNA Site and its surroundings; and
- (b) any other conditions, which this Deed specifies to be Latent Conditions,

but do not include any conditions stated by this Deed not to be Latent Conditions.

**Law** means any statute, ordinance, code, law, order, decree, circular, rule or regulation or international treaty by any government authority, whether now or at any time in the future in effect and any principles of law or equity established by decisions of courts of New South Wales or the Commonwealth of Australia.

[REDACTED]

**Legal Challenge** means a legal challenge through the commencement of court proceedings in relation to the grant or validity of, or compliance with, a Planning Approval.

**Licensed TNA Site Access Date** means, in respect of a Licensed TNA Site, the relevant date by which access to that Licensed TNA Site must be provided, as set out in the Site Access Schedule.

**Licensed TNA Sites** means the land described as the “Licensed TNA Sites” in the Site Access Schedule (and to avoid doubt, excludes the BCSS Site).

**Loss** means all damage, loss, cost, claim, obligation or expense (including legal costs and expenses of any kind) whether present, future, fixed, unascertained, actual or contingent.

[REDACTED]

**Major BCSS Defect** has the meaning given to the term “Major Defect” in the RNI Interface Deed.

**Merotherie Connection Completion** has the meaning given to the term “Connection Completion” in the RNI Interface Deed.

**Merotherie Connection Readiness** means when:

- (a) a control room is ready to operate the relevant parts of Merotherie Substation; and
- (b) one diameter of the 500 kV yard at Merotherie Substation and the incoming Merotherie Line associated with that diameter, are capable of being safely energised.

**Merotherie Lines** has the meaning given in the RNI Interface Deed.

**Merotherie Lines Connection** means TNA Separable Portion 5C.

**Merotherie Substation** has the meaning given in the RNI Interface Deed.

**Minister** means the NSW Minister responsible for administering the EII Act.

**Minor Variation** means any modification made or to be made by Transgrid to Transgrid’s Network provided such modification does not:

- (a) have a detrimental impact on transfer capacity;
- (b) have a detrimental impact on the functionality of Transgrid’s Network;
- (c) have a cost impact of greater than [REDACTED] or cause delay to the achievement of Practical Completion of a TNA Separable Portion by the relevant Date for Practical Completion;
- (d) result in an extension of any Date for Practical Completion for a TNA Separable Portion;
- (e) result in and will not require any amendments to the Technical Requirements; or
- (f) have any material adverse impact on the RNI Network Operator or the RNI Project.

**Monthly Payment Date** means:

- (a) prior to the Early Development Activities Cessation Date, the 1<sup>st</sup> day of each month commencing the 1<sup>st</sup> day of the month immediately after the Execution Date; and
- (b) the Early Development Activities Cessation Date.

**Moral Rights** has the meaning given in the *Copyright Act 1968* (Cth).

**Mount Piper to Wallerawang Upgrade Works** means TNA Separable Portion 2.

**National Electricity Law** or **NEL** means the 'National Electricity Law' set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA) as it applies to New South Wales pursuant to the *National Electricity (New South Wales) Act 1997* (NSW), as modified or disapplied pursuant to the EII Act.

**National Electricity Rules** or **NER** means the national electricity rules as defined in the National Electricity Law as they apply within New South Wales, as modified or disapplied pursuant to the EII Act.

**Native Title Claims** means any claim or application for a determination of native title under the *Native Title Act 1993* (Cth) or any similar Law.

**Network Lease** means the Transmission Network Lease between Transgrid and ETMHC dated on or about 16 December 2015.

**Network Operator** has the meaning given in the EII Act.

**Notice of Dissatisfaction** means a written notice given by one party to the other party if it is dissatisfied with:

- (a) a Notice of Resolution given by the Operating Committee under clause 28.2; or
- (b) a determination by an Expert under clause 28.3.

**NSW Electricity Network** means the *Transmission Networks* and the *Distribution Networks* within New South Wales, excluding the TNA Works and the TNA Assets.

**Operations Environmental Management Plan** means the management documents or management systems, including environmental management strategy, which together satisfy all requirements under the Planning Approvals relevant to the Transgrid Activities to be performed during the Operations Phase, which will be a Project Plan.

**Operations Phase** means the period commencing on the Last Date of Practical Completion and ending on the date on which this Deed terminates.

**Operations Phase Year** means:

- (a) subject to paragraph (b) below, each 12-month period during the Operations Phase commencing on the Last Date of Practical Completion and on each subsequent anniversary of the Last Date of Practical Completion; and
- (b) the period commencing on the last anniversary of the Last Date of Practical Completion and ending on the date on which this Deed terminates.

**Payment Deed** means the payment deed to be entered into between Transgrid and the Scheme Financial Vehicle for payments to be made by the Scheme Financial Vehicle to Transgrid pursuant to a Revenue Determination.

**PDD Services** means the PDD Services required to be undertaken under the Project Development Deed (as set out in that deed).

**Performance Default** means:

- (a) in respect of Transgrid:
  - (i) Transgrid fails to commence works for a TNA Separable Portion in accordance with the Delivery Plan;
  - (ii) a material breach by Transgrid of its obligations under this Deed which causes, or is reasonably likely to cause, a material adverse effect on the TNA Project;
  - (iii) a failure to achieve Practical Completion of a TNA Separable Portion (excluding Facilitation of TL79 Over-crossing) by the relevant Practical Completion Sunset Date;
  - (iv) a failure to take the outages and other actions required as part of Facilitation of TL79 Over-crossing in accordance with clause 5.6(b);
  - (v) an Insolvency Event occurs in relation to Transgrid; or
  - (vi) Abandonment; and
- (b) in respect of EnergyCo:
  - (i) a material breach by EnergyCo of its obligations under this Deed which causes, or is reasonably likely to cause, a material adverse effect to Transgrid; or
  - (ii) an Insolvency Event occurs in relation to EnergyCo,

in each case, excluding a Financial Default.

**Personnel** means, in relation to a person (including a Subcontractor), its directors, officers, employees, agents, consultants and contractors.

**Planning Approval Modification** means:

- (a) in respect of a Project Planning Approval:
  - (i) the Project Planning Approval is modified under the EP&A Act;
  - (ii) the Minister for Planning issues a new Approval in respect of the TNA Project or one or more TNA Separable Portion(s) (as applicable) in substitution for or replacement of the relevant Project Planning Approval; or
  - (iii) any new Approval referred to in paragraph (a)(ii) of this definition is modified under the EP&A Act; and
- (b) in respect of the EPBC Act Approval:
  - (i) the EPBC Act Approval is modified under the EPBC Act;
  - (ii) the Minister for the Environment issues a new Approval in respect of the TNA Project or one or more TNA Separable Portion(s) (as applicable) in substitution for or replacement of the EPBC Act Approval; or
  - (iii) any new Approval referred to in paragraph (b)(ii) of this definition is modified under the EPBC Act.

**Planning Approvals** means:

- (a) the Project Planning Approvals;
- (b) the EPBC Act Approvals; and
- (c) any other consent, concurrence or approval, or determination of satisfaction with any matter, which is made, given or issued under any of the Planning Approvals referred to in paragraphs (a) and (b) of this definition from time to time and all conditions to any of them, and includes all documents incorporated by reference, as that consent, concurrence, approval or determination may be modified from time to time.

**Practical Completion** in respect of a TNA Separable Portion will be achieved when:

- (a) in respect of a TNA Separable Portion that forms part of the TNA Upgrade Project or Cut in to BCSS, all of the following requirements have been satisfied:
  - (i) the TNA Separable Portion is complete and complies with the requirements of this Deed (including the Technical Requirements), except for minor omissions and minor Defects which do not prevent the TNA Works that form part of that TNA Separable Portion from being reasonably capable of being used for the Intended Purpose;
  - (ii) any Commissioning Tests required under this Deed to have been carried out and passed before the TNA Works for such TNA Separable Portion reach Practical Completion have been carried out and passed (other than Cut in to BCSS to the extent commissioning with respect to Cut in to BCSS is required as part of another TNA Separable Portion of the TNA Connection Project); and; and
  - (iii) Transgrid is ready to commence the operation and maintenance of the TNA Separable Portion (other than Cut in to BCSS to the extent operations and maintenance is required to commence with respect to Cut in to BCSS at completion of another TNA Separable Portion of the TNA Connection Project);
- (b) in respect of the Facilitation of TL79 Over-crossing, Facilitation of TL79 Over-crossing is complete for all line over-crossings; and
- (c) in respect of a TNA Separable Portion that forms part of the TNA Connection Project (other than Cut in to BCSS and Facilitation of TL79 Over-crossing), in the Independent Certifier's opinion (acting in accordance with this Deed), all of the following requirements have been satisfied:
  - (i) the TNA Separable Portion is complete and complies with the requirements of this Deed (including the Technical Requirements), except for minor omissions and minor Defects:
    - A. which, in the Independent Certifier's opinion, acting reasonably, do not prevent the TNA Works that form part of that TNA Separable Portion from being reasonably capable of being used for the Intended Purpose;
    - B. in relation to which the Independent Certifier determines that Transgrid has reasonable grounds for not promptly rectifying them; and
    - C. rectification of which will not prejudice the convenient use of the relevant TNA Works;



- (i) any Commissioning Tests required under this Deed to be carried out and passed before the TNA Works for such TNA Separable Portion reach Practical Completion have been carried out and passed; and
- (ii) Transgrid is ready to commence the operation and maintenance of the TNA Separable Portion; and
- (iii) in respect of Merotherie Lines Connection, Merotherie Connection Completion has been achieved.

**Practical Completion Sunset Date** means, in respect of:

- [REDACTED]
- [REDACTED]

**Project Development Deed** means the document titled 'Project Development Deed – CWO REZ Project' between Transgrid and EnergyCo dated 16 January 2024 as amended or amended and restated from time to time.

**Project Planning Approval** means the Approval (or Approvals) granted by the Minister for Planning and Public Spaces under the EP&A Act in respect of the TNA Project or one or more TNA Separable Portions (as applicable), including:

- (a) conditions to such Approval; and
- (b) documents incorporated by reference,

as the Approval may be modified or clarified from time to time.

**Project Plans** means:

- (a) Work Health Safety and Management Plan;
- (b) Construction Environmental Management Plan;
- (c) Project Quality Plan;
- (d) Testing and Commissioning Plan;
- (e) Community and Stakeholder Engagement Plan; and
- (f) Operations Environmental Management Plan.

**Project Quality Plan** means the project quality plan relating to the Transgrid Activities and that is required to comply with the Technical Requirements, which is a Project Plan.

**Proposal Notice** has the meaning given in clause 24.1(a).

**Reasonable Evidence** means a detailed worksheet that sets out a summary of the relevant internal and external costs, outgoings, payments and invoices.

**Regulator** means the regulator appointed for the purposes of Part 5 of the EII Act, which, as at the Execution Date, is the Australian Energy Regulator.

**Reimbursable Costs** means the costs incurred and provisioned for by EnergyCo under this Deed, as Infrastructure Planner, in connection with the TNA Project, including:

- (a) costs relating to Biodiversity Offsets (excluding any Biodiversity Offsets for which Transgrid is responsible for obtaining pursuant to clause 7.3(c));
  - (b) payments made by EnergyCo for PDD Services under the Project Development Deed or for Early Development Activities under clause 13;
  - (c) Delay Costs;
  - (d) [REDACTED]
  - (e) [REDACTED] and
  - (f) the costs of Variations to be borne by EnergyCo as set out in clause 23.12(a),
- but does not include the BCSS Purchase Price.

**Related Body Corporate** has the meaning given in the section 9 of the Corporations Act.

**Relevant Contractor** means a contractor that is highly skilled and qualified with experience in Australia in the design and construction of works similar to the TNA Works.

**Relevant Default** has the meaning given in clause 26.2.

**Remedial Action Period** has the meaning given in clause 26.5(c)(i).

**Renewable Energy Sector Board** means the board for manufacturing and construction in the NSW renewable energy sector established under section 7 of the EII Act.

**Renewable Energy Sector Board Plan** means the plan prepared by the Renewable Energy Sector Board, and approved by the Minister under section 8(3) of the EII Act.

**Renewable Energy Zone** means the Central-West Orana renewable energy zone declared by the Minister under section 19 of the EII Act (as amended by the Minister under the EII Act from time to time).

**Resolution Institute** means the Resolution Institute, Australia.

**Revenue Determination** means a non-contestable revenue determination by the Regulator under section 38 of the EII Act of the amount payable to Transgrid for carrying out the TNA Project (or any part of it) (as amended, updated, adjusted or remade from time to time).

**Revenue Determination Process** means the process under the EII Act, EII Regulations and EII Guidelines for Transgrid to obtain a Revenue Determination or Revenue Determination Review.

**Revenue Determination Review** means where the Regulator adjusts or remakes a Revenue Determination under the EII Act, EII Regulations and EII Guidelines.

**Revenue Proposal** means a proposal made by Transgrid to the Regulator in accordance with the EII Act, EII Regulations and EII Guidelines requesting a Revenue Determination or a Revenue Determination Review.

**REZ Network Connection Agreement** means the contract titled "Central-West Orana Renewable Energy Zone REZ Network Connection Agreement" between the RNI Network Operator and Transgrid dated on or about the Execution Date.

**RNI Assets** means:

- (a) the *Transmission Network* and associated equipment and assets to be designed and constructed for the Renewable Energy Zone by the RNI Network Operator; and

(b) before the Transfer Date, the BCSS Infrastructure Assets.

**RNI Connection Works** means the works required to be performed by the RNI Network Operator to connect the RNI Project to, and interface with, Transgrid's Network, as described in the Interface Requirements.

**RNI Interface Deed** means the deed titled “Interface Deed Central West Orana Renewable Energy Zone” between Transgrid, the RNI Network Operator and EnergyCo dated on or around the Execution Date.

**RNI Line Crossing Deed** means the deed titled “Line Crossing Deed, Central West Orana Renewable Energy Zone” between Transgrid and the RNI Network Operator dated on or around the Execution Date.

**RNI Network Operator** means the entity that was authorised by the Consumer Trustee on 4 June 2024 as the Network Operator for the main network infrastructure project for the Renewable Energy Zone under the EII Act.

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■ [REDACTED]

■ [REDACTED]

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■ [www.oxfordjournals.org/doi/10.1093/oxfordjournals/oxfam.a014111](http://www.oxfordjournals.org/doi/10.1093/oxfordjournals/oxfam.a014111)

■ **Figure 1**

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[REDACTED]

- [REDACTED]
- [REDACTED];
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**RNI Non-Compliance** means any defect, deficiency, fault, malfunction, error, cracking, shrinking, subsidence, omission or other aspect in the RNI Connection Works or relevant part of the RNI Project which is not in accordance with the Interface Requirements.

**RNI Project** means the design, construction, ownership, operation and maintenance of the RNI Assets by the RNI Network Operator for the Renewable Energy Zone.

**RNI Project Agreement Termination Event** means:

- (a) the BCSS Sale and Purchase Deed is terminated before that deed expires;
- (b) the RNI Line Crossing Deed is terminated before Merotherie Connection Completion occurs; or
- (c) the REZ Network Connection Agreement is terminated before Merotherie Connection Completion occurs.

**RNI Project Agreements** means the RNI Interface Deed, the BCSS Sale and Purchase Deed, the RNI Line Crossing Deed and the REZ Network Connection Agreement.

**RNI Project Deed** the agreement entitled 'Central-West Orana Renewable Energy Zone REZ Network Infrastructure Project Deed' to be entered into between EnergyCo and the RNI Network Operator under which the RNI Network Operator is undertaking the RNI Project .

**Scheme Financial Vehicle** has the meaning given in the EII Act.

**Security Interest** means any mortgage, charge, pledge, lien, encumbrance, assignment, hypothecation, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person or any interest in relation to personal property provided for by a transaction that in substance secures payment or performance of an obligation or otherwise would be considered to be a "security interest" under the *Personal Property Securities Act 2009* (Cth).

**Settled Cure Plan** has the meaning given in clause 26.2(e).

**Special Protection Scheme Augmentation** means the Augmentation or such other arrangement for the special protection scheme for the TNA Project as determined in accordance with clause 5.4(a)(ii).

**Site Access Schedule** means the site access schedule set out in Schedule 6.

**Standard** means a technical requirement setting out uniform engineering or technical criteria, methods, processes, and practices, including:

- (a) a standard or code of practice published in Australia (including where published by Standards Australia Limited (ACN 087 326 690) and the Building Code of Australia); or
- (b) another standard or code of practice which the parties agree that Transgrid may use.

**Subcontract** means an agreement under which a Subcontractor is engaged by Transgrid.

**Subcontractor** means a contractor, subcontractor, sub-subcontractor and so on right down the contracting chain (including suppliers, tradespersons and consultants) of Transgrid involved in performing the Transgrid Activities.

**Subsequent SIDR Meeting** has the meaning given in the RNI Interface Deed.

**Suppliers** means a person engaged to perform any part of the Transgrid Activities by Transgrid directly, including consultants, vendors and suppliers, but excluding employees of Transgrid.

**Technical Requirements** means the requirements set out in Schedule 5.

**Testing and Commissioning Plan** means the testing and commissioning plan relating to the Transgrid Activities and that is required to comply with the Technical Requirements, which is a Project Plan.

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■ [REDACTED]  
 [REDACTED]  
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[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**TNA Assets** means:

- (a) in respect of each TNA Separable Portion, the TNA Works that form part of the relevant TNA Separable Portion; and
- (b) on and after the Transfer Date, Barigan Creek Switching Station.

**TNA Certification Functions** means the functions of the Independent Certifier under this Deed, being to determine and certify whether Practical Completion of each TNA Separable Portion for the TNA Connection Project (other than Cut in to BCSS and Facilitation of TL79 Over-crossing) has been achieved.

**TNA Connection Project** means Cut in to BCSS, Commissioning of BCSS Stage 1, Commissioning of BCSS Stage 2, Merotherie Lines Connection, Commissioning of BCSS Stage 3 and Facilitation of TL79 Over-crossing.

**TNA Project** means:

- (a) the financing, design and construction of the TNA Upgrade Project and the TNA Connection Project (to the extent design and construction are applicable) in accordance with this Deed and includes all TNA Separable Portions; and
- (b) all other activities that Transgrid performs or is required to perform (including as set out in the Technical Requirements) in respect of paragraph (a) above.

**TNA Separable Portion** means:

- (a) each part of the TNA Works described as a separate “TNA Separable Portion” in the Technical Requirements; and

- (b) any other works that the parties agree is to be a separate TNA Separable Portion, pursuant to a Variation or otherwise,

and a reference to a TNA Separable Portion means any one of them, as the context requires.

**TNA Separable Portion Commencement Date** means, in respect of a TNA Separable Portion, the date upon which the last of the Commencement Conditions applicable to that TNA Separable Portion (as set out in Schedule 1) has been satisfied or waived in accordance with clause 4.2 and/or 4.3.

**TNA Site** means:

- (a) during the Delivery Phase, all land on which the TNA Works are or will be located;
- (b) during the Operations Phase, all land on which the TNA Assets are or will be located; and
- (c) any other land which is used for Transgrid to perform the Transgrid Activities.

**TNA Upgrade Project** means Bayswater to Liddell Upgrade Works, Mount Piper to Wallerawang Upgrade Works and Transposition Works.

**TNA Works** means the physical works, assets, systems and deliverables that Transgrid must design, construct and complete under this Deed (including, to the extent relevant to such works, Variations to be undertaken in accordance with this Deed).

**Transfer Date** means the date on which BCSS Sale Completion occurs.

**Transgrid Activities** means all activities that Transgrid performs, or is required to perform, to exercise its rights or comply with its obligations under this Deed, whether or not the performance of such things or tasks is subcontracted by Transgrid to another person, including the activities described in the Technical Requirements.

**Transgrid CEMP** has the meaning given in the RNI Interface Deed.

**Transgrid Supplied Design** has the meaning given in the RNI Interface Deed

**Transgrid Supplied Equipment** has the meaning given in the RNI Interface Deed.

**Transgrid's Network** means the *Transmission Network* for which Transgrid is the registered *Transmission Network Service Provider*, including the TNA Assets.

**Transgrid's Representative** means [REDACTED] or any other person from time to time appointed by Transgrid to replace that person in accordance with clause 10.5(b).

**Transposition Augmentation** means an Augmentation or such other arrangement to provide for the 2 transmission line transpositions between Bannaby and Mt Piper.

**Transposition Works** means TNA Separable Portion 3.

**Trust** means the NSW Electricity Networks Operations Trust (ABN 70 250 995 390).

**Trustee** means NSW Electricity Networks Operations Pty Limited (ACN 609 169 959) as trustee of the Trust.

**Upgrade Completion Stage** means any of the following:

- (a) Practical Completion of Bayswater to Liddell Upgrade Works; and



- (b) Practical Completion of Mount Piper to Wallerawang Upgrade Works.

**Variation** means a variation to the work under this Deed by any one or more of the following:

- (a) increase, decrease or omit any part, including omitting any part of the TNA Works;
- (b) change the character or quality of any material or work or of anything described in this Deed;
- (c) change the levels, lines, positions or dimensions of a design or of anything described in this Deed or any Design Documentation or any part of the TNA Works;
- (d) carry out additional work;
- (e) demolish or remove material or work no longer required by EnergyCo; or
- (f) vary Transgrid's design obligations.

**Variation Order** means a notice titled 'Variation Order' issued by EnergyCo under clause 23.

**WHS Legislation** means the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW).

**Work Health Safety and Management Plan** means the work health safety and management plan relating to the Transgrid Activities and that is required to comply with the Technical Requirements, which is a Project Plan.

## 1.2 Interpretation

In this Deed unless the contrary appears:

- (a) a reference to this Deed or another instrument includes any variation or replacement of either of them;
- (b) a reference to a clause, schedule, part, exhibit or annexure is a reference to a clause, schedule, part, exhibit or annexure in or to this Deed;
- (c) a reference to a thing (including an amount) is a reference to the whole and each part of it;
- (d) the singular includes the plural and vice versa;
- (e) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (f) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (g) the word "including" is to be interpreted as meaning "including, but not limited to" and the word "include" is to be interpreted in a corresponding manner;
- (h) a reference to a month is a reference to a calendar month;
- (i) where an expression is defined, any other part of speak or grammatical form of that expression has a corresponding meaning;
- (j) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for and any subordinated legislation issued under, that legislation or legislative provision;

- (k) a reference to a document, contract or agreement (including this Deed) is to that document, contract or agreement as varied, novated, ratified or replaced from time to time;
- (l) a reference to construction includes development, manufacture, supply, installation, integration, testing and commissioning;
- (m) a reference to time is to Sydney time;
- (n) words appearing in italics have the meaning assigned to them from time to time by the NER; and
- (o) a reference to \$, AUD or dollar is to the lawful currency of the Commonwealth of Australia.

### **1.3 Headings**

Headings are inserted for convenience only and do not affect the interpretation of this Deed.

### **1.4 Time**

- (a) If a period of time is specified and the period dates from a given day or the day of an act or event, it is to be calculated exclusive of that day and, if a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of that day.
- (b) A reference to a day is a reference to a period of time commencing at midnight and ending the following midnight.
- (c) Where the day on or by which any sum is payable is a day other than a Business Day, that sum must be paid on the immediately subsequent Business Day.
- (d) If a payment prescribed under this Deed to be made by a party on or by a given Business Day is made after 5pm on that day, it is taken to be made on the next Business Day.

### **1.5 Precedence**

In the case of any inconsistency, ambiguity, discrepancy or inadequacy in the documents forming this Deed, the priority of the documents will be in accordance with the following sequence:

- (a) the General Conditions; and
- (b) the schedules.

### **1.6 Resolution of Ambiguity**

If a party becomes aware of any ambiguity, discrepancy or inconsistency between, or within, the schedules and the operative provisions of this Deed, then:

- (a) it must promptly notify the other party; and
- (b) within 5 Business Days of notification of an ambiguity, discrepancy or inconsistency under clause 1.6(a), the parties must meet with a view to agreeing in good faith on the interpretation of the ambiguity, discrepancy or inconsistency, in accordance with clause 1.5. Failing agreement within 5 Business Days of that meeting, either party may raise the matter as a dispute for resolution under clause 28.

## 1.7 **Contra proferentem**

No provision of this Deed is to be interpreted to the disadvantage of a party because that party (or its representative) drafted that provision.

## 1.8 **Limitation of trustee's liabilities and obligations**

- (a) The Trustee enters into this Deed in its capacity as trustee of the Trust and in no other capacity;
- (b) Subject to clause 1.8(d), the liability of the Trustee arising under or in connection with this Deed is limited to the extent to which the Trustee is entitled to be indemnified for that liability out of the assets of the Trust.
- (c) Subject to clause 1.8(d), no person will be entitled to:
  - (i) claim from or commence proceedings against the Trustee in respect of any Loss under this Deed in any capacity other than as a trustee of the Trust;
  - (ii) seek appointment of a receiver, receiver manager, official manager, trustee, administrator, other controller (as defined in the *Corporations Act 2001* (Cth)) or similar officer to any assets of the Trustee, or prove in any liquidation, administration or arrangement of or affecting the Trustee, except in relation to the assets of the Trust; or
  - (iii) enforce or seek to enforce any judgement in respect of any Loss under this Deed against the Trustee in any capacity other than as Trustee of the Trust.
- (d) The provisions of this clause 1.8 do not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because there is (whether under the trust deed which establishes the Trust or by operation of Law) a reduction in the extent, or an extinguishment, of the Trustee's indemnification out of the assets of the Trust as a result of:
  - (i) the Trustee's fraud, negligence or breach of trust;
  - (ii) the Trustee having acted beyond power or improperly in relation to the Trust; or
  - (iii) any act intended to reduce or extinguish the Trustee's indemnification out of the assets of the Trust.
- (e) The Trustee represents and warrants that, and undertakes to ensure that:
  - (i) the Trustee's right of indemnity out of, and lien over, the assets of the Trust as at the Execution Date are not, and will not be, limited in any way; and
  - (ii) the Trustee does not, and will not, have any liability which may be set off against that right of indemnity.
- (f) This clause 1.8 applies despite any other provision of this Deed.

## 1.9 **Bank Bill Rate**

If the index on which the Bank Bill Rate is based ceases to be published, then that index is to be replaced by the nearest equivalent index and any necessary consequential amendments

are to be made. That replacement index and those amendments are to be determined as follows:

- (a) by agreement between the parties; or
- (b) if the parties cannot agree within 20 Business Days after the relevant public index ceased to be published, either party may refer the matter to dispute resolution under clause 28.

## 2 Term

This Deed commences on the Execution Date and ends on the earlier of:

- (a) the Expiry Date; and
- (b) the date that this Deed is otherwise validly terminated in accordance with its terms.

## 3 Primary roles and responsibilities

### 3.1 Roles and responsibilities of EnergyCo

The parties acknowledge that EnergyCo:

- (a) performs a number of statutory functions and responsibilities in relation to the NSW electricity supply industry;
- (b) has been appointed as Infrastructure Planner with respect to the Renewable Energy Zone in accordance with the EII Act;
- (c) enters this Deed in its capacity as the Infrastructure Planner for the Renewable Energy Zone; and
- (d) must act reasonably and in good faith when dealing with Transgrid.

### 3.2 Roles and responsibilities of Transgrid

The parties acknowledge that Transgrid:

- (a) is the “primary transmission network service provider” and “jurisdictional planning body” (as each of those terms are defined in the National Electricity Rules) for the transmission system in NSW, for which Transgrid undertakes a number of statutory functions and responsibilities under the National Electricity Law and National Electricity Rules in respect of those roles;
- (b) enters into this Deed to provide the TNA Project in order to facilitate the connection of the RNI Assets to Transgrid’s Network and to increase the capability of Transgrid’s Network to transmit electricity from the Renewable Energy Zone;
- (c) must act reasonably and in good faith when dealing with EnergyCo; and
- (d) has been appointed as the Network Operator for the TNA Project and intends to receive a Revenue Determination in respect of the TNA Project, separate and distinct from the RNI Network Operator.

### 3.3 Relationship between the parties

Nothing in this Deed will be construed or interpreted as:

- (a) conferring a right in favour of either EnergyCo or Transgrid to enter into any commitment on behalf of the other or otherwise to act as the other's agent; or
- (b) creating a partnership, joint venture or fiduciary relationship between EnergyCo and Transgrid.

### 3.4 No fetter

- (a) Despite any other provision of this Deed:
  - (i) this Deed does not bind the Minister; and
  - (ii) nothing in this Deed will be construed or interpreted as unlawfully restricting or otherwise unlawfully affecting the unfettered discretion of EnergyCo, the Minister or the Regulator to exercise any of their respective executive or statutory powers or functions under any Law.
- (b) Subject to clause 3.4(c) but despite any other provision of this Deed, nothing in this Deed will be construed or interpreted as:
  - (i) restricting or otherwise affecting Transgrid's obligations to comply with:
    - A. an authorisation or direction given to Transgrid to carry out the TNA Project as the Network Operator under the EII Act;
    - B. without limiting clause 3.4(b)(i)A, the terms of its transmission operator's licence (as at the Execution Date, issued under the *Electricity Supply Act 1995* (NSW)); and
    - C. the National Electricity Rules as a registered "network service provider" in respect of Transgrid's Network and "primary transmission network service provider" in respect of the NSW transmission system (each as defined in the National Electricity Rules); or
  - (ii) requiring Transgrid to prioritise the administration of this Deed, or resolution of a breach or dispute under this Deed, over the operation, management or system security of Transgrid's Network.
- (c) Clauses 3.4(a) and 3.4(b) do not limit any liability which a party would have had to the other party under this Deed as a result of its breach of a term of this Deed but for those clauses.

### 3.5 Cooperation and coordination

Each party must:

- (a) use its reasonable endeavours to cooperate with and provide reasonable assistance to the other party;
- (b) act reasonably in performing its obligations and exercising its rights under this Deed;
- (c) act in good faith and in a collaborative, co-operative and diligent manner,

with the objective of Transgrid delivering the TNA Project in a safe, reliable, cost-effective and timely manner.

### 3.6 Independent Certifier

- (a) Transgrid acknowledges that EnergyCo and the RNI Network Operator have jointly engaged the Independent Certifier to provide certification services in connection with the RNI Project.
- (b) Transgrid acknowledges and agrees that the Independent Certifier will perform the TNA Certification Functions, and in doing so, the Independent Certifier will be required to act independently of EnergyCo, Transgrid and the RNI Network Operator.
- [REDACTED]
- (d) Each party must:
  - (i) provide the Independent Certifier with all information and documents;
  - (ii) allow the Independent Certifier to attend meetings between the parties; and
  - (iii) allow the Independent Certifier access to all premises,

as may be necessary or reasonably required by the Independent Certifier to enable the Independent Certifier to perform the TNA Certification Functions.
- (e) All notices and documents provided by a party to the Independent Certifier (in the case of EnergyCo, which are relevant to the TNA Certification Functions) must be copied to the other party at the same time. Copies of all documents and determinations relevant to the TNA Certification Functions provided by the Independent Certifier to one party must be sent by that party to the other party (if the relevant information was not provided to both parties by the Independent Certifier).
- (f) In the absence of manifest error on the face of the determination notice, the determinations of the Independent Certifier in the performance of the TNA Certification Functions will be final and binding on the parties.
- (g) If either party believes that there is a manifest error on the face of the determination notice from the Independent Certifier and wishes to dispute the determination on that basis, it may do so in accordance with clause 28. Determinations of the Independent Certifier will be immediately binding on the parties, who must give effect to such determinations unless and until they are revised pursuant to the dispute resolution process in clause 28.
- (h) No act or omission of the Independent Certifier, including any determination by the Independent Certifier, will:
  - (i) be deemed to be an act or omission by a party (including a breach of contract) under or in connection with this Deed; or
  - (ii) entitle Transgrid to make any Claim against EnergyCo.
- (i) As between Transgrid and EnergyCo, the costs of the Independent Certifier are to be borne by EnergyCo.

### **3.7 All work included**

Except as stated in this Deed, Transgrid has allowed for the provision of all work and materials necessary for the Transgrid Activities, and all such work and materials:

- (a) must be undertaken and provided by Transgrid at its own cost;
- (b) form part of the Transgrid Activities and will not constitute a Variation; and
- (c) will not entitle Transgrid to make a Claim except as provided for in this Deed.

## **4 Commencement Conditions**

### **4.1 Commencement**

Except to the extent the activities required for a TNA Separable Portion are part of the Early Development Activities, Transgrid must not commence a TNA Separable Portion, unless and until the TNA Separable Portion Commencement Date for that TNA Separable Portion occurs.

### **4.2 Satisfaction of Commencement Conditions**

- (a) EnergyCo must use all reasonable endeavours to satisfy each Commencement Condition for which it is listed as a “responsible party” in Schedule 1 by the relevant Commencement Condition Sunset Date.
- (b) Transgrid must use all reasonable endeavours to satisfy each Commencement Condition for which it is listed as a “responsible party” in Schedule 1 by the relevant Commencement Condition Sunset Date.
- (c) When a party is of the opinion that a Commencement Condition has been satisfied it must give the other party notice of its opinion.
- (d) The party receiving a notice given under clause 4.2(c) will notify the other party as to whether or not it agrees that the Commencement Condition has been satisfied, such agreement not to be unreasonably withheld.
- (e) If the party receiving a notice given under clause 4.2(c) fails to give the other party a notice under clause 4.2(d) within 10 Business Days, the Commencement Condition will be deemed to have been satisfied.

### **4.3 Waiver of Commencement Conditions**

- (a) A Commencement Condition is waived if, and only if:
  - (i) where a single party is listed as the “benefiting party” in Schedule 1, that party gives notice in writing of the waiver of the Commencement Condition to the other party; and
  - (ii) where both parties are listed as a “benefiting party” in Schedule 1, both parties agree in writing to waive the Commencement Condition.
- (b) Where a Commencement Condition is waived in accordance with clause 4.3(a), then:
  - (i) the party listed as the “responsible party” in Schedule 1 is not required to achieve that Commencement Condition by the relevant Commencement Condition Sunset Date; and

- (ii) the rights and obligations of the parties under this Deed, will not be subject to satisfaction of that Commencement Condition,

but the party listed as the “responsible party” must continue to use all reasonable endeavours to achieve the obligation the subject of that Commencement Condition as soon as reasonably practicable.

#### **4.4 Commencement Condition Sunset Dates**

- (a) A Commencement Condition Sunset Date for any Commencement Condition for a TNA Separable Portion may be extended by mutual agreement of the parties (each acting reasonably).
- (b) A Commencement Condition Sunset Date in respect of a Commencement Condition will be extended on a day for day basis to the extent that the party that is listed as the “responsible party” for such Commencement Condition is delayed in satisfying the Commencement Condition due to a delay caused or contributed to by:
  - (i) acts or omissions of the non-responsible party; or
  - (ii) other events outside of the responsible party’s reasonable control, including third party delays and faults.
- (c) If a Commencement Condition for a TNA Separable Portion has not been satisfied or waived by the relevant Commencement Condition Sunset Date (as may have been extended under clause 4.4(a) or 4.4(b)), then a party listed as a “benefiting party” in Schedule 1 in respect of that Commencement Condition may give notice in writing to the party listed as the “responsible party” in Schedule 1 requiring the responsible party to continue using reasonable endeavours to satisfy the relevant Commencement Condition in question within the period specified in its notice (which period must not be less than 15 Business Days).
- (d) If a party gives a notice under clause 4.4(c) and the Commencement Condition in respect of the notice under clause 4.4(c) is not satisfied or waived within the period specified in that notice (or such longer period as the parties may agree), then this Deed (except to the extent applicable to the Early Development Activities which form part of the relevant TNA Separable Portion) will be suspended as it relates to the relevant TNA Separable Portion from expiry of the period specified in that notice until the earlier of:
  - (i) satisfaction or waiver of each Commencement Condition applicable to the relevant TNA Separable Portion; and
  - (ii) the date on which the parties agree an alternative approach to be taken in respect of the relevant TNA Separable Portion.

#### **4.5 Commencement of TNA Separable Portion and Early Development Activities**

- (a) In respect of each TNA Separable Portion, Transgrid must commence performing the TNA Separable Portion on and from the TNA Separable Portion Commencement Date.
- (b) Transgrid will perform the Early Development Activities before the TNA Separable Portion Commencement Dates in accordance with this Deed.



## 5 Transgrid's overarching obligations

### 5.1 Obligations and performance standards for Transgrid Activities

Subject to the terms of this Deed, Transgrid must perform the Transgrid Activities:

- (a) with due expedition and without delay;
- (b) with due care, skill and prudence and in accordance with:
  - (i) the terms of this Deed, including the Technical Requirements and the Delivery Plan;
  - (ii) the RNI Interface Deed, including the Interface Requirements;
  - (iii) the Design Documentation;
  - (iv) the Project Plans;
  - (v) relevant professional principles and standards (including the NER and Good Industry Practice); and
  - (vi) all Applicable Laws (including the applicable WHS Legislation);
- (c) to achieve Practical Completion of each TNA Separable Portion (excluding Facilitation of TL79 Over-crossing) by the Date for Practical Completion for that TNA Separable Portion; and
- (d) to ensure that the TNA Assets are fit for their Intended Purpose at the Date of Practical Completion for the TNA Separable Portion to which the relevant TNA Asset relates.

### 5.2 Transgrid's acknowledgements

- (a) Transgrid recognises that the TNA Project is ultimately for the benefit of NSW electricity consumers who will bear the cost of the TNA Project.
- (b) Transgrid accepts the risk of outcomes under the EII Act, EII Regulations and applicable regulatory instruments in respect of the TNA Project, including:
  - (i) meeting the requirements forming part of a Revenue Determination under section 38 of the EII Act, including the transmission efficiency test to be applied to calculate the prudent, efficient and reasonable capital costs for development and construction of a network infrastructure project; and
  - (ii) how the TNA Project may subsequently be rolled into Transgrid's existing regulatory asset base of a *Transmission Network Service Provider* under the National Electricity Rules.
- (c) Subject to clause 5.2(d) and the rest of this Deed, the revenue stream received by Transgrid from the Scheme Financial Vehicle with respect to the TNA Project will be provided in accordance with the Revenue Determination.
- (d) Transgrid acknowledges that EnergyCo will not underwrite the revenue stream with respect to the TNA Project which Transgrid will receive through the Revenue Determination or adjustments to the Revenue Determination (other than as expressly set out in this Deed, including through Reimbursable Costs, the BCSS Purchase Price and any other payments required to be made by EnergyCo to Transgrid under this Deed).

- (e) Transgrid accepts the regulatory, funding, procurement, design, construction and commissioning risks associated with carrying out the TNA Project and calculating the costs of constructing, operating and financing the TNA Assets required for the purposes of seeking a Revenue Determination, except as expressly stated otherwise in this Deed. To avoid doubt, Transgrid is not responsible for the design and construction of Barigan Creek Switching Station or the Merotherie Lines, which is the responsibility of the RNI Network Operator.
- (f) As the Network Operator authorised or directed to carry out the TNA Project, Transgrid will also be responsible for:
  - (i) engineering, procurement and construction of the TNA Project (other than the design and construction of Barigan Creek Switching Station or the Merotherie Lines, which is the responsibility of the RNI Network Operator);
  - (ii) testing and commissioning of the TNA Project;
  - (iii) operating and maintaining the TNA Project;
  - (iv) financing and owning the TNA Project; and
  - (v) fulfilling all relevant functions of a *Transmission Network Service Provider* under the National Electricity Law and National Electricity Rules in respect of the TNA Project.

### 5.3 Financing

Transgrid is responsible for securing all debt and equity financing to enable it to carry out the TNA Project.

### 5.4 Transfer capability limitations

- (a) Despite any other provision of this Deed, the parties acknowledge and agree that until such time as:
  - (i) the Transposition Augmentation has been completed and commissioned; and
  - (ii) if it is agreed by EnergyCo and Transgrid that the Special Protection Scheme Augmentation is required following the completion of the associated study by Transgrid, the Special Protection Scheme Augmentation has been completed and commissioned,

the following applies:

  - (iii) the transfer capability for the RNI Project at Barigan Creek Switching Station may, from time to time, be reduced from 4.5GW; and
  - (iv) Transgrid will not be liable upon any Claim by EnergyCo or its Personnel arising out of or in connection with:
    - A. the design, performance or function of the TNA Works with respect to its interaction or impact on the transfer capability of the RNI Project; or
    - B. any Loss suffered by EnergyCo that relates to the transfer capability of the RNI Project.

- (b) The parties will act in good faith and in a collaborative, co-operative and diligent manner to implement the Transposition Augmentation.

## 5.5 RESB and First Nations requirements

Transgrid must prepare and implement a First Nations Participation Plan and Australian Industry Participation Plan for the TNA Project in accordance with and consistent with the First Nations Guidelines and the Renewable Energy Sector Board Plan.

## 5.6 RNI Project Agreements and TL79 Over-crossing

- (a) Transgrid must:
  - (i) perform Facilitation of TL79 Over-crossing in accordance with the RNI Line Crossing Deed and clause 5.6(b);
  - (ii) use reasonable endeavours to procure that ETMHC acquires Barigan Creek Switching Station in accordance with the BCSS Sale and Purchase Deed; and
  - (iii) perform its other obligations under the RNI Project Agreements in accordance with the requirements of those agreements.
- (b) Transgrid must:
  - (i) work cooperatively and in good faith with EnergyCo and the RNI Network Operator to discuss the timing and relevant requirements of outages required as part of Facilitation of TL79 Over-crossing;
  - (ii) use reasonable endeavours to facilitate any such outages as soon as reasonably practicable having regard to the RNI Network Operator's program, taking into account the circumstances in existence at the relevant time which may impact Transgrid's ability to facilitate outages within the time period requested by the RNI Network Operator and/or EnergyCo, including:
    - A. if Transgrid is prevented or delayed by AEMO or a third party from taking an outage or is unable to procure AEMO or a third party's agreement to take an outage;
    - B. if AEMO or a third party withdraws its agreement to any outage requested by Transgrid;
    - C. if Transgrid is directed by AEMO to not take an outage; and
    - D. if applying Good Industry Practice, it would be adverse to power system security or cause harm to the NSW Electricity Network and electricity consumers of NSW to take an outage; and
  - (iii) comply with its obligations under the RNI Line Crossing Deed in relation to outages.

## 5.7 Termination of RNI Project Agreements

- (a) If an RNI Project Agreement Termination Event has occurred, either party may (unless the relevant RNI Project Agreement was terminated as a result of the party's breach of the RNI Project Agreement or "Insolvency Event" as defined in the RNI Project Agreement) give notice to the other party.

- (b) If a party gives notice under clause 5.7(a), the parties must, acting in good faith, endeavour to agree as soon as reasonably practicable whether and how to proceed with the TNA Project. The parties must implement any agreement reached.
- (c) If the parties have not reached agreement under clause 5.7(b) [REDACTED] after a party gives notice under clause 5.7(a), Transgrid will complete those TNA Works it has already commenced at that point in time, such that Transgrid is able to complete the construction, connection and commissioning of the relevant assets to the extent necessary.

## 6 Subcontracting and Personnel

### 6.1 Subcontracting and management of contractors

- (a) Transgrid may subcontract any of its obligations under this Deed without EnergyCo's consent.
- (b) Transgrid:
  - (i) will be responsible for the management of all Subcontractors in relation to the TNA Project;
  - (ii) will be responsible for and bear the risk of the interface between its Subcontractors; and
  - (iii) must integrate, interface and co-ordinate the design, construction, completion and commissioning of its Subcontractors,

so as to ensure that the TNA Project is completed in accordance with this Deed.
- (c) Transgrid must ensure that any Subcontractors are suitably qualified and have the technical and financial capability to perform the Transgrid Activities that are or will be the subject of the relevant subcontract.
- (d) Subcontracting does not relieve Transgrid from any of its liabilities or obligations under this Deed. Transgrid is liable to EnergyCo for the acts and omissions of Subcontractors and employees and agents of Subcontractors as if they were acts or omissions of Transgrid.

### 6.2 Key personnel

- (a) Transgrid must, during the Delivery Phase:
  - (i) provide experienced and skilled Personnel to perform its obligations under this Deed; and
  - (ii) ensure that all persons employed or engaged on the TNA Project hold appropriate qualifications and have received appropriate training for their intended duties, and provide evidence of such qualifications and training to EnergyCo as reasonably requested.
- (b) Transgrid must, during the Delivery Phase:
  - (i) employ the Personnel specified in this clause in the positions specified in this clause, unless otherwise agreed by the parties:

■	[REDACTED]
■	[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

(ii) if any of the Personnel referred to in clause 6.2(b)(i):

- A. die;
- B. become seriously ill; or
- C. cease to be employed by Transgrid or any one of its Subcontractors (as applicable),

replace them with Personnel of at least equivalent experience, ability, competency and expertise to the Personnel specified in clause 6.2(b)(i), and in the case of the Personnel identified in clause 6.2(b)(i)A, obtain EnergyCo's prior written consent to the proposed replacement (not to be unreasonably withheld) provided that if EnergyCo fails to respond to Transgrid's request for consent within 10 Business Days of the notification from Transgrid, EnergyCo will be deemed to have provided its consent to the proposed replacement.

(c) Transgrid must ensure the Personnel referred to in clause 6.2(b)(i):

- (i) carry out the functions and are given the authorities and responsibilities specified for them in this Deed (if specified);
- (ii) are physically based in Australia; and
- (iii) are available for communication with EnergyCo when EnergyCo reasonably requires.

## 7 Approvals

### 7.1 Planning Approvals for TNA Connection Project

- (a) The parties acknowledge that, as at the Execution Date, EnergyCo has prepared and submitted the Connection EIS under Application No. SSI-48323210.
- (b) EnergyCo has obtained the Planning Approvals covering the TNA Connection Project.
- (c) Transgrid acknowledges that the Planning Approvals covering the TNA Connection Project additionally covers the RNI Project.
- (d) Transgrid is responsible for preparing an environmental management plan in relation to the TNA Connection Project to the extent applicable with reference to the allocation of responsibilities and obligations to prepare an environmental management plan for the construction phase for the Barigan Creek Switching Station under the RNI Interface Deed to enable compliance with the Planning Approvals. Transgrid will prepare the environmental management plan in accordance with all Applicable Laws and will provide a copy of the environmental management plan to EnergyCo.

## 7.2 Planning Approvals for TNA Upgrade Project

- (a) Transgrid is responsible for the development and approval of:
  - (i) the environmental impact statement for the Mount Piper to Wallerawang Upgrade Works;
  - (ii) the supplementary environmental report for the Bayswater to Liddell Upgrade Works; and
  - (iii) relevant documents or submissions that reflects the appropriate planning pathway required under relevant planning laws to provide for the Transposition Works,

**(Transgrid Planning Documents).**
- (b) Transgrid is responsible for preparing and submitting:
  - (i) the Transgrid Planning Documents and will do so in accordance with the timetable set out in the Delivery Plan; and
  - (ii) responses to submissions on the Transgrid Planning Documents.
- (c) Transgrid:
  - (i) will give EnergyCo a reasonable opportunity to comment on the Transgrid Planning Documents and any amendments to them before they are submitted to the relevant Authority; and
  - (ii) may consider in its reasonable discretion any comments received from EnergyCo in relation to the Transgrid Planning Documents.
- (d) Transgrid is responsible for obtaining the Planning Approvals covering the TNA Upgrade Project.

## 7.3 Compliance with Approvals

- (a) Transgrid will be responsible for:
  - (i) applying for, obtaining and complying with all other approvals and third party consents required to undertake the TNA Project; and
  - (ii) complying with the requirements of all Authorities with jurisdiction over the TNA Project.
- (b) Transgrid must:
  - (i) in performing the Transgrid Activities, comply with and ensure that its Subcontractors comply with; and
  - (ii) ensure that the TNA Project complies with,

the conditions of all Approvals (including the Planning Approvals) applicable to the TNA Project, except that (subject to clause 7.3(c)) EnergyCo is required to obtain the Biodiversity Offsets required under the Planning Approvals for the TNA Connection Project.
- (c) Transgrid will be responsible for obtaining Biodiversity Offsets in connection with the TNA Separable Portions that form part of the TNA Upgrade Project (to the extent Biodiversity Offsets are required).

- (d) Transgrid acknowledges and agrees that the biodiversity impacts of the TNA Project must be avoided, minimised or offset, such that any requirement to offset biodiversity impacts is reduced to the greatest extent practicable.
- (e) Transgrid must, if requested by EnergyCo, promptly give EnergyCo reasonable evidence of Transgrid's compliance with the Planning Approvals in relation to the TNA Project.

## **8 Land and access**

### **8.1 Land acquisition and access for TNA Upgrade Project**

- (a) Transgrid is responsible for acquiring or procuring the acquisition of all land, land rights and access to land as required for the TNA Upgrade Project. Transgrid acknowledges that its existing access rights (including transmission easements) may not be sufficient for the TNA Upgrade Project.
- (b) Transgrid:
  - (i) is responsible for the management of all activities undertaken on land for the TNA Upgrade Project;
  - (ii) must ensure any TNA Works, or temporary works, for the TNA Upgrade Project remain within the land rights and tenure arrangements acquired by Transgrid in accordance with clause 8.1(a) in respect of TNA Upgrade Project;
  - (iii) must ensure that all land and land rights acquired for the TNA Upgrade Project are dealt with in compliance with the Technical Requirements and the Network Lease and except with respect to land owned by Transgrid, must undertake pre and post-condition surveys of all land that may be impacted by the construction activities for the TNA Upgrade Project (and rectify and make good or compensate for any damage resulting from the TNA Upgrade Project); and
  - (iv) will be responsible for obtaining any additional or varied access or interests in land required for a Variation (other than a Variation the subject of an EnergyCo Variation Request or a Variation Order directed by EnergyCo pursuant to clause 23.9), and, notwithstanding anything else in this Deed, EnergyCo will not be responsible to Transgrid for any time and cost impacts arising from the requirements for additional access rights and interests of land in respect of Variations (other than a Variation the subject of an EnergyCo Variation Request or a Variation Order directed by EnergyCo pursuant to clause 23.9) or any related conditions of access.

### **8.2 Land acquisition and access for TNA Connection Project**

- (a) EnergyCo will be responsible for obtaining and providing Transgrid with access to Licensed TNA Sites in accordance with the Site Access Schedule (including construction access where construction works are required as part of the Transgrid Activities), including by utilising EnergyCo's compulsory acquisition powers (if relevant) to obtain access to Licensed TNA Sites.
- (b) Transgrid acknowledges and agrees that:
  - (i) EnergyCo's obligation to provide access to the relevant Licensed TNA Sites under clause 8.2(a) will be limited to the provision of easements

only and access will be provided in accordance with the Site Access Schedule, which indicatively shows the location of such easements; and

- (ii) access to the Licensed TNA Sites will be provided to Transgrid as set out in the Site Access Schedule and such access is subject to this clause 8, the RNI Interface Deed and any other provision of this Deed affecting access.
- (c) Subject to this clause 8 and any other provision of this Deed affecting access, EnergyCo grants to Transgrid a non-exclusive, royalty free licence (including the right to sub-licence) to use and occupy the Licensed TNA Sites for which EnergyCo has obtained access for the purpose of performing the Transgrid Activities and undertaking the TNA Project in accordance with this Deed
- (d) The licence referred to in clause 8.2(c):
  - (i) commences in respect of each Licensed TNA Site for which EnergyCo has obtained access:
    - A. on the Licensed TNA Site Access Date for that Licensed TNA Site; or
    - B. if a period is specified in the Site Access Schedule in relation to access to a Licensed TNA Site, by the last day of that period; and
  - (ii) terminates in respect of each Licensed TNA Site on the earlier of:
    - A. the relevant date set out in the column titled 'Site Access Expiry' in Table B.3-1 of the Site Access Schedule;
    - B. the Expiry Date; and
    - C. the date that this Deed is otherwise validly terminated in accordance with its terms.
- (e) The rights conferred by the licence granted under clause 8.2(c) are personal rights in contract only and do not create any tenancy or any estate or interest in the Licensed TNA Sites or any land referred to under that licence.
- (f) Transgrid:
  - (i) must, except where accessing a Licensed TNA Site via land or an access route owned by Transgrid, access the Licensed TNA Sites only at the points of entry and exit and via the routes set out in the Site Access Schedule; and
  - (ii) bears the risk of coordinating its access to the Licensed TNA Sites with any other person that uses the access ways to the Licensed TNA Sites.
- (g) Transgrid must not use the Licensed TNA Sites for which EnergyCo has obtained access, or permit it to be used, for any purpose other than performing the Transgrid Activities and undertaking the TNA Project, unless expressly permitted by this Deed or unless the use has first been agreed by the parties.
- (h) Transgrid must ensure that:
  - (i) Transgrid Activities conducted on Licensed TNA Sites for which EnergyCo has obtained access comply with the permissible uses,



access dates and conditions of access and any other requirements for the Licensed TNA Sites as set out in the Site Access Schedule; and

- (ii) any Transgrid Activities or other activities required for the TNA Connection Project remain within the Licensed TNA Sites as it applies to the TNA Connection Project.
- (i) Except to the extent that Transgrid has adequate existing transmission easements in place, EnergyCo will be responsible for procuring any transmission easements in favour of Transgrid that are required by Transgrid for the TNA Connection Project, including by utilising EnergyCo's compulsory acquisition powers (if relevant). EnergyCo agrees to bear all costs associated with procuring any transmission easements as required in accordance with this clause 8.2(i).
- (j) If EnergyCo or Transgrid becomes aware that any land that is required for the performance of the Transgrid Activities relating to the TNA Connection Project is not included as a Licensed TNA Site, EnergyCo and Transgrid may agree amendments to the Site Access Schedule to incorporate that relevant land as a Licensed TNA Site. In negotiating these amendments, the parties will act in good faith and reasonably with the view to accommodating any changes where they achieve "best for project" outcomes.

### 8.3 Native Title Claims

If there is a Native Title Claim with respect to the TNA Site or any part of the TNA Site, Transgrid must:

- (a) promptly (and in any event within 10 Business Days) notify EnergyCo and provide such information regarding the Native Title Claim as is reasonably requested by EnergyCo;
- (b) continue to perform the Transgrid Activities, except to the extent otherwise:
  - (i) directed by EnergyCo;
  - (ii) ordered by a court or tribunal; or
  - (iii) required by Applicable Law; and
- (c) comply with the First Nations Guidelines, the First Nations Participation Plan required by clause 5.5 and any relevant conditions of the Planning Approvals.

## 9 WH&S, environment and community

### 9.1 Principal contractor

- (a) For the purposes of the WHS Legislation and this Deed the construction work comprised in the TNA Project is taken to be part of the same "construction project".
- (b) The parties acknowledge and agree that Transgrid is commissioning the construction project comprised in the TNA Project for the purposes of clause 293 of the *Work Health and Safety Regulation 2017* (NSW).
- (c) The parties acknowledge that, as at the Execution Date, Transgrid has engaged or will engage the D&C Contractor as principal contractor for the construction work comprised in the TNA Project in accordance with the D&C Contract.
- (d) EnergyCo and Transgrid each acknowledge that:

- (i) until such time as Transgrid engages the D&C Contractor or another party as principal contractor for the construction work comprised in the TNA Project and authorises the D&C Contractor or that other person to have management and control of the workplace under clause 293(2) of the *Work Health and Safety Regulation 2017* (NSW); and
- (ii) if any such purported engagement is ineffective for any reason and when any such engagement ends,

Transgrid will be the principal contractor for the construction work comprised in the TNA Project and must discharge the duties of a principal contractor in relation to such construction work.

- (e) Transgrid must, within 10 Business Days of Transgrid engaging the D&C Contractor or another person as principal contractor for the construction work comprised in the TNA Project, notify EnergyCo of the person appointed as principal contractor and, if requested by EnergyCo, the terms of that appointment as principal contractor.

## 9.2 Community and stakeholder management

- (a) Transgrid acknowledges that the areas where the Transgrid Activities are being carried out are of great importance to many people, including local residents and businesses.
- (b) As between the parties, the parties agree that Transgrid will have primary responsibility for community and stakeholder engagement in respect of the TNA Upgrade Project. Transgrid must provide EnergyCo its Community and Stakeholder Engagement Plan as soon as practicable after the first TNA Separable Portion Commencement Date for a TNA Separable Portion that forms part of the TNA Upgrade Project.
- (c) Transgrid must coordinate its community and stakeholder engagement in respect of the TNA Upgrade Project with the community and stakeholder engagement in respect of the Renewable Energy Zone (to the extent it is in place at the time the TNA Upgrade Project is being undertaken).
- (d) As between the parties, the parties agree that EnergyCo will have primary responsibility for community and stakeholder engagement in respect of the TNA Connection Project and Transgrid will:
  - (i) review and comment on the community and stakeholder engagement plan for the TNA Connection Project; and
  - (ii) assist, work collaboratively with, and provide requested information to support EnergyCo and the RNI Network Operator in all community and stakeholder engagement activities in connection with the TNA Connection Project.

## 9.3 WH&S, environment and government policies

Transgrid must:

- (a) meet all the requirements of, and comply with:
  - (i) all WHS Legislation that are Applicable Laws; and
  - (ii) all environmental protection and management laws that are Applicable Laws,

and procure that the D&C Contractor and all of its other Subcontractors comply with all WHS Legislation that are Applicable Laws and all environmental protection and management laws that are Applicable Laws;

- (b) undertake such workplace health and safety assurance of its principal contractor (as defined in the WHS Legislation) under Transgrid's workplace health and safety management system to meet or exceed the minimum requirements as described in the EnergyCo WHS Requirements Specification as it relates to Transgrid's obligations under this Deed;
- (c) as soon as reasonably practicable, notify EnergyCo of any notifiable incident (as defined in the WHS Legislation) in connection with the Transgrid Activities;
- (d) if required for the TNA Project, comply with, and meet the obligations imposed by, the New South Wales Industrial Relations Guidelines: Building and Construction Procurement (to the extent applicable to the Transgrid Activities) as they relate to the TNA Project; and
- (e) design and construct the TNA Works in accordance with a whole-of-life system that achieves the requirements of this Deed and relevant Planning Approvals.

## 10 Governance and Reporting

### 10.1 Reporting during Delivery Phase

- (a) During the Delivery Phase, Transgrid will provide:
  - (i) quarterly reports to EnergyCo demonstrating progress in respect of each TNA Separable Portion, including (but not limited to) details of:
    - A. progress since the previous progress report;
    - B. any issues or delays encountered, and the actions taken in response;
    - C. any changes to the Date for Practical Completion for a TNA Separable Portion or any other material changes to the Delivery Plan (to the extent Transgrid has not already notified or reported to EnergyCo of these changes in complying with the other terms of this Deed);
    - D. progress to be made in the following quarter; and
    - E. progress in complying with Transgrid's First Nations Participation Plan and Australian Industry Participation Plan required by clause 5.5; and
  - (ii) up to the Early Development Activities Cessation Date, monthly reports, including details of:
    - A. the Early Development Activities performed and the deliverables provided to EnergyCo since the previous report;
    - B. any issues encountered or delays that Transgrid has become aware of in relation to the performance of the Early Development Activities, and actions taken by Transgrid in response;

- C. the Early Development Activities expected to be performed in the following month;
  - D. aggregate costs paid by EnergyCo to Transgrid, and incurred or committed by Transgrid but not yet paid, up to the date of the report in respect of the Early Development Activities as against the monthly capped amount ('Cumulative Cap') specified in Schedule 8; and
  - E. costs forecasted to be incurred or committed by Transgrid in respect of the Early Development Activities from the date of the report up to the date that is 3 months starting from the end of the reporting period.
- (b) Transgrid must update the cost forecast under clause 10.1(a)(ii)E to take account of events or circumstances which will or may change the forecasted costs.
  - (c) If Transgrid updates the cost forecast pursuant to clause 10.1(b), Transgrid must provide EnergyCo with a copy of the updated forecast as soon as reasonably practicable.

## 10.2 Reporting during Operations Phase

During the Operations Phase, Transgrid will provide to EnergyCo a report with respect to the TNA Project within 20 Business Days of the end of each calendar year during the Operations Phase covering the previous calendar year, which report must include details of:

- (a) any claims against Transgrid for breaches of Applicable Laws or commenced disputes regarding the same with respect to the TNA Project only;
- (b) any other matters required to be included in the Operations Phase report under the Technical Requirements; and
- (c) progress in complying with Transgrid's First Nations Participation Plan and Australian Industry Participation Plan required by clause 5.5.

## 10.3 EnergyCo's Representative

- (a) EnergyCo will ensure that at all times throughout the Term there is a natural person appointed by it as EnergyCo's Representative.
- (b) EnergyCo may at any time by written notice to Transgrid replace EnergyCo's Representative with another person.
- (c) EnergyCo's Representative will carry out all of its functions under this Deed as the agent of EnergyCo (and not as an independent certifier, assessor or valuer).
- (d) Transgrid must comply with all directions given by EnergyCo's Representative in accordance with this Deed.

## 10.4 Appointees of EnergyCo's Representative

- (a) EnergyCo's Representative may:
  - (i) by written notice to Transgrid, appoint persons to exercise any of the functions of EnergyCo's Representative under this Deed;
  - (ii) not appoint more than one person to exercise a specific function at any one time;

- (iii) revoke any appointment under clause 10.4(a)(i) by written notice to Transgrid; and
  - (iv) continue to exercise a function under this Deed despite appointing another person to exercise the function under clause 10.4(a)(i) (provided that any Directions of EnergyCo's Representative take precedence over those of any other representatives to the extent of any inconsistency).
- (b) All references in this Deed to EnergyCo's Representative include a reference to an appointee under this clause 10.4.

## 10.5 Transgrid's Representative

- (a) Transgrid must ensure that at all times throughout the Term there is a natural person appointed by it as Transgrid's Representative.
- (b) Subject to this clause 10.5, Transgrid may at any time by written notice to EnergyCo replace Transgrid's Representative with another person of at least equivalent experience, ability, competency and expertise to the immediately preceding Transgrid's Representative.
- (c) Transgrid's Representative must be an officer or employee of Transgrid or a Related Body Corporate of Transgrid, and until the Date of Practical Completion of Commissioning of BCSS Stage 3 must be employed full-time on the TNA Project or otherwise sufficiently briefed such that they are aware of all relevant matters in relation to the TNA Project as if they had been employed full-time on the TNA Project.
- (d) Transgrid must ensure that Transgrid's Representative is available at all reasonable times for communications with EnergyCo's Representative.
- (e) Any discharge, receipt, waiver, consent, notice, communication, agreement, approval, request or demand under or in connection with this Deed is given to or by Transgrid if it is given to or by Transgrid's Representative.
- (f) Any act or other thing done or effected by Transgrid's Representative under or in connection with this Deed is done or effected by Transgrid if it is done or effected by Transgrid's Representative.
- (g) Transgrid must ensure that at all times during his or her appointment, Transgrid's Representative has the authority to represent and bind Transgrid, and to perform its role, duties and functions, under and in connection with this Deed.

## 10.6 Operating Committee

- (a) On the Execution Date, the parties will establish an operating committee, comprising:
  - (i) two senior representatives from Transgrid;
  - (ii) two senior representatives from EnergyCo; and
  - (iii) such other persons as the parties agree from time to time,

**(Operating Committee).**
- (b) The Operating Committee must be maintained on and from the Execution Date until the Last Date of Practical Completion.
- (c) The functions of the Operating Committee are to:

- (i) coordinate the carrying out of the Transgrid Activities;
  - (ii) monitor the overall progress of the Transgrid Activities and discuss issues regarding the delivery of the TNA Works;
  - (iii) discuss any contractual Claims and Variations under this Deed that have arisen in the immediately preceding two months; and
  - (iv) review and discuss such other matters relating to the Transgrid Activities as determined to be relevant by the parties.
- (d) The Operating Committee will meet quarterly (or as otherwise agreed by the parties), either virtually or at a venue reasonably convenient to the members of the Operating Committee.
- (e) EnergyCo's Representative will chair each meeting of the Operating Committee.
- (f) Transgrid may have a representative of a Subcontractor attend any meeting of the Operating Committee.
- (g) EnergyCo is entitled to have representatives of the State or any other Authority attend meetings of the Operating Committee.
- (h) Without limiting any other provision of this Deed, nothing that occurs as part of the Operating Committee meetings or as part of the process for such meetings (including anything agreed by the Operating Committee) will:
- (i) relieve any party of its obligation or constitute a waiver or variation of any party's rights or obligations under this Deed; or
  - (ii) be construed as a direction, Variation or notice to do or not do something.

## 11 Revenue Determinations

### 11.1 Transgrid to obtain

- (a) Transgrid must, as part of the TNA Project, undertake the Revenue Determination Process for and use its best endeavours to obtain:
- (i) one or more Revenue Determinations covering each TNA Separable Portion; and
  - (ii) each Revenue Determination Review required by this Deed to include a DSP Adjustment,
- in accordance with, and subject to the EII Act, the EII Regulations, the EII Guidelines and this clause 11.
- (b) Transgrid:
- (i) will provide EnergyCo with a reasonable opportunity to comment on a Revenue Proposal that Transgrid proposes to submit to the Regulator by providing the draft Revenue Proposal to EnergyCo no later than 20 Business Days before the date that Transgrid proposes to submit the Revenue Proposal to the Regulator;
  - (ii) must incorporate any comments from EnergyCo on the Revenue Proposal insofar as those comments relate to Reimbursable Costs or

DSP Adjustments required by this Deed in respect of Reimbursable Costs, the BCSS Purchase Price and delay liquidated damages payable under clause 21.1; and

- (iii) may consider in its reasonable discretion any other comments received from EnergyCo in relation to the Revenue Proposal.
- (c) If EnergyCo does not provide any comments to Transgrid within 10 Business Days of receiving the Revenue Proposal from Transgrid in accordance with clause 11.1(b)(i), EnergyCo will be deemed to have no comments on the Revenue Proposal submitted under clause 11.1(b)(i).
- (d) Transgrid must promptly give to the Regulator any information or clarification regarding a Revenue Proposal or the TNA Project (or any part of it) requested by the Regulator for the purposes of making:
  - (i) the Revenue Determination; or
  - (ii) a Revenue Determination Review required by this Deed to include a DSP Adjustment.
- (e) Transgrid must give EnergyCo notice and a copy of the Revenue Determination, each Revenue Determination Review and any "Preliminary Position Paper", "Issues Paper", or other similar document, in each case relating to the Revenue Determination or Revenue Determination Review within 5 Business Days after it is received.

## 11.2 DSP Adjustments

- (a) Transgrid must ensure the Revenue Proposals submitted by it, and use its best endeavours to ensure the Revenue Determination obtained by it, provides for the DSP Adjustments contemplated by this Deed.
- (b) Where this Deed requires Transgrid to seek a DSP Adjustment, Transgrid must:
  - (i) when next permitted to apply for a Revenue Determination Review, include the DSP Adjustment in its Revenue Proposal; and
  - (ii) use its best endeavours to obtain a Revenue Determination Review which includes the DSP Adjustment.

## 11.3 Cost Recovery Declaration

- (a) No earlier than the date that is [REDACTED] after the date of the initial Revenue Determination for the TNA Project, Transgrid may:
  - (i) submit an application for the Minister to issue a Cost Recovery Declaration; and
  - (ii) use reasonable endeavours to obtain a Cost Recovery Declaration.
- (b) If a Cost Recovery Declaration is not obtained under clause 11.3(a)(ii) and unless otherwise agreed by the parties, promptly after the start of each *Regulatory Control Period* until a Cost Recovery Declaration is made, Transgrid must:
  - (i) submit a further application for the Minister to issue a Cost Recovery Declaration; and
  - (ii) use reasonable endeavours to obtain a Cost Recovery Declaration.





■ [REDACTED]

■ [REDACTED]

- (b) The obligations in this clause 11.4 do not require EnergyCo to take any action or provide any assistance that would:
- (i) restrict, impair or otherwise affect the unfettered discretion of EnergyCo to exercise any of its statutory functions or powers pursuant to any Applicable Law;
  - (ii) require EnergyCo to act outside of its statutory functions or other relevant delegation under the EII Act;
  - (iii) be inconsistent with any of EnergyCo's recommendations to the Minister, or submissions to the Consumer Trustee; or
  - (iv) be inconsistent with any of EnergyCo's rights under this Deed.
- (c) Nothing in this clause 11.4:
- (i) requires EnergyCo to give to Transgrid any representation, warranty, guarantee or underwrite in respect of; or
  - (ii) obliges EnergyCo to ensure Transgrid obtains,
- the regulatory outcome Transgrid is seeking with the Regulator.

## 11.5

[REDACTED]

■ [REDACTED]

■ [REDACTED]

## 12 Project costs and Reimbursable Costs

### 12.1 Transgrid costs

Unless otherwise agreed between the parties (including as set out in the Project Development Deed and this Deed), Transgrid will fund its own development, delivery and operating costs in respect of the TNA Project.

## 12.2 Reimbursable Costs

- (a) EnergyCo must, as soon as reasonably practicable upon a request from Transgrid (and in any event within 10 Business Days of such request), provide to Transgrid details of the Reimbursable Costs.
- (b) Transgrid must include any Reimbursable Costs (in existence at the relevant time and a budget for the Reimbursable Costs expected to be incurred after submission of Transgrid's initial Revenue Determination (as prepared by EnergyCo)) in its initial Revenue Determination application and any subsequent Revenue Proposal (as applicable). Transgrid will use its best endeavours to obtain the Regulator's approval of such costs under the Revenue Determination.
- (c) Transgrid must pay Reimbursable Costs included in the Revenue Proposal and approved by the Regulator in the Revenue Determination or Revenue Determination Review (as applicable) to EnergyCo in accordance with clause 12.2(d). Payments must be made into the account notified by EnergyCo to Transgrid at least 5 Business Days before such payment is made. Reimbursable Costs will be payable following acceptance of such costs within and in accordance with the Revenue Determination or any Revenue Determination Review. [REDACTED]

[REDACTED]

[REDACTED]

- (d) All Reimbursable Costs payable under this Deed will be paid by Transgrid:

[REDACTED]

[REDACTED]

## 12.3 Adjustment to Reimbursable Costs

- (a) Subject to clause 12.3(d), EnergyCo may, by written notice to Transgrid, direct a change to the Reimbursable Costs or the dates the Reimbursable Costs become payable (**Reimbursable Costs Adjustment**).
- (b) If EnergyCo gives a notice under clause 12.3(a), Transgrid must:
  - (i) when next permitted to apply for a Revenue Determination Review, include the Reimbursable Costs Adjustment in respect of the change to the Reimbursable Costs in its Revenue Proposal;
  - (ii) use its reasonable endeavours to obtain a Revenue Determination Review which includes the Reimbursable Costs Adjustment in respect of the change to the Reimbursable Costs in its Revenue Proposal; and

[REDACTED]

- (c) The Reimbursable Costs Adjustment in respect of a change to the Reimbursable Costs will be an increase or decrease to the Determined Service Payments to reflect the change to the Reimbursable Costs which Transgrid is required to pay.
- (d) Clause 12.3(a) does not entitle EnergyCo to direct a change to the date in paragraph (b) of the definition of Early Development Activities Cessation Date regarding payment for the performance of Early Development Activities.

#### **12.4 Project costs payable by EnergyCo**

- (a) All amounts claimed by Transgrid as payable by EnergyCo under or in connection with this Deed [REDACTED], must be demonstrably prudent, efficient and reasonable.
- (b) Promptly following a request from EnergyCo, Transgrid must provide Reasonable Evidence to EnergyCo to support a claim that an amount referred to in clause 12.4(a) is prudent, efficient and reasonable for the purposes of demonstrating compliance with the EII Act, EII Regulations and EII Guidelines.

#### **12.5 Set-off**

- (a) Transgrid must make all payments due to EnergyCo under this Deed without set-off or counterclaim, and without any deduction or withholding for or on account of any present or future Tax, unless Transgrid is compelled by Law to make such a deduction or withholding.
- (b) Nothing in this clause 12.5 affects EnergyCo's right to recover from Transgrid the whole of any balance that remains owing after any set-off.

### **13 Early Development Activities**

#### **13.1 Early Development Activities**

On and from the Execution Date:

- (a) Transgrid must perform:
- (i) any remaining PDD Services not yet commenced or completed under the Project Development Deed at the Execution Date; and
  - (ii) the additional services set out in Schedule 8, under and in accordance with this Deed,
- (Early Development Activities);**
- (b) the Project Development Deed is terminated and will cease to apply to the remaining PDD Services not yet commenced or completed under the Project Development Deed at the Execution Date;
- (c) EnergyCo must pay Transgrid under this Deed the "PDD Services Payments" for the PDD Services performed up to (and including) 31 December 2024 on the basis that the "PDD Milestones" (as defined in the Project Development Deed) are deemed to have been achieved;
- (d) the amounts under clause 13.1(c) must be claimed by Transgrid within 10 Business Days after the Execution Date (including provision of the statement, supporting

information and any information requested by EnergyCo under clauses 13.3(b)(iii), 13.3(b)(iv) and 13.3(e)) and will become payable by EnergyCo in accordance with this clause 13;

- (e) all PDD Services commenced or performed after 31 December 2024 will be paid for by EnergyCo under and in accordance with this Deed; and
- (f) the terms of this Deed will apply to any PDD Services undertaken by Transgrid under the Project Development Deed and those PDD Services are deemed to have been performed under this Deed.

13.2 Early Development Payments

- (a) EnergyCo must make monthly payments to Transgrid for Early Development Activities in accordance with clauses 13.2 and 13.3.
- (b) Subject to clause 13.2(c), the amount payable in respect of each Monthly Payment Date (each an **Early Development Payment**) will be an amount equal to the aggregate of:
  - (i) the labour, management and external costs incurred by Transgrid in performing the Early Development Activities during the month ending on that Monthly Payment Date; and
  - (ii) the labour, management and external costs incurred by Transgrid in performing the Early Development Activities during any earlier month to the extent it has not been included in any previous Early Development Payment.
- (c) Subject to clause 13.2(e) and 13.2(f), the amount payable in respect of a relevant Monthly Payment Date when added to all previous Early Development Payments will not exceed the aggregate capped amount ('Cumulative Cap') specified in Schedule 8 for the relevant Monthly Payment Date.
- (d) EnergyCo and Transgrid may agree amendments to Schedule 8 from time to time with regards to the relevant activities and deliverables that impact the Delivery Plan. In negotiating these amendments, parties will act in good faith and reasonably with the view to accommodating any changes where they achieve "best for project" outcomes and Transgrid's ability to carry out those activities and deliverables.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

- (g) Transgrid must ensure the costs claimed as Early Development Payments are:

- (i) costs directly necessary for, and incurred solely for the purposes of, the TNA Project; and
- (ii) would not have been incurred but for Transgrid's performance of the Early Development Activities.

### **13.3 Invoice and payment**

- (a) Transgrid will issue to EnergyCo within 12 Business Days after each Monthly Payment Date, an invoice for the amount payable by EnergyCo in respect of that Monthly Payment Date in accordance with this Deed.
- (b) Each invoice under clause 13.3(a) must:
  - (i) be a tax invoice (as defined in the GST Legislation);
  - (ii) set out a reconciliation of the invoiced amounts against deliverables (as relevant) and activity types undertaken during the relevant invoicing period;
  - (iii) contain a statement from Transgrid confirming that the Early Development Activities for which Transgrid has claimed payment have been completed in accordance with this Deed;
  - (iv) contain the relevant deliverables and the supporting information specified in Schedule 8 and Schedule 9 (as applicable) and such other information and evidence in relation to such amounts that EnergyCo may require to reasonably verify the basis of the amounts;
  - (v) where the relevant invoice includes labour costs, management costs or embedded staff costs, include calculations of those costs as against a schedule of rates where such schedule of rates has been agreed between the parties;
  - (vi) where the relevant invoice includes external costs, include a summary of the relevant monthly activity and deliverables carried by that external resource (where possible), a statement from Transgrid that the external costs have been paid and the amounts paid; and
  - (vii) the information set out in Schedule 9.
- (c) EnergyCo may, within 10 Business Days after receipt of an invoice in accordance with clause 13.3(b), issue a payment schedule to Transgrid which must identify the invoice it relates to and set out the:
  - (i) amount claimed which is payable to Transgrid in accordance with this Deed; and
  - (ii) reasons for any difference (including, if applicable, the reasons for withholding or setting off any amount).
- (d) EnergyCo must pay Transgrid, within 20 Business Days after receipt of an invoice in accordance with clause 13.3(b):
  - (i) where EnergyCo has given notice under clause 13.3(c), the amount stated to be payable in that notice; or
  - (ii) where EnergyCo has not given notice under clause 13.3(c), the amount set out in the invoice.

- (e) If EnergyCo requests any additional information regarding an invoice in accordance with Schedule 8, Transgrid must provide the requested information within 2 Business Days.
- (f) Transgrid may refer any dispute in respect of a payment schedule provided by EnergyCo under clause 13.3(c) for resolution in accordance with clause 28. If a Dispute regarding a payment schedule provided by EnergyCo under clause 13.3(c) is referred to dispute resolution, EnergyCo must, within 15 Business Days of the resolution of the Dispute in accordance with clause 28, pay Transgrid any additional amounts agreed to be paid or which the Expert has determined must be paid by EnergyCo (as applicable).
- (g) In the case of an invoice dispute:
  - (i) Transgrid will provide such information as reasonably requested by EnergyCo to substantiate the costs which are the subject of the relevant dispute; and
  - (ii) EnergyCo will pay any undisputed amount in accordance with clause 13.3(d).

#### **13.4 Revenue Determination**

- (a) All amounts paid by EnergyCo under the Project Development Deed and this clause 13 will be Reimbursable Costs to which clauses 12.2, 12.3 and 12.4 apply.
- (b) For the avoidance of doubt, Transgrid is only required to reimburse EnergyCo once for amounts paid by EnergyCo under the Project Development Deed and this clause 13, with such reimbursement to be made under this Deed as set out in this clause 13.

### **14 Project Plans**

#### **14.1 Project Plans**

- (a) Transgrid:
  - (i) must develop the Project Plans in accordance with the requirements of this Deed and as may be required to comply with the Technical Requirements;
  - (ii) may update its Project Plans from time to time; and
  - (iii) must review and, if necessary, update each Project Plan to take account of events or circumstances which will, or may, affect the Transgrid Activities relevant to the Project Plan, including:
    - A. Variations;
    - B. Changes in Law;
    - C. changes in Approvals;
    - D. the requirements of any Authority;
    - E. the commencement of new phases or stages of design, construction, testing, commissioning or operations; and

F. those events or circumstances expressly identified for the Project Plan in the Technical Requirements.

- (b) Transgrid must give EnergyCo a copy of each Project Plan before Transgrid commences to implement it. If Transgrid updates a Project Plan pursuant to clauses 14.1(a)(ii) or 14.1(a)(iii), Transgrid must provide EnergyCo with a copy of the updated Project Plan as soon as reasonably practicable.
- (c) Transgrid must not update any Project Plan in a manner which makes EnergyCo's obligations under this Deed more onerous or increases any liability or potential liability, or reduces any right, of EnergyCo in connection with the Transgrid Activities.
- (d) The Construction Environmental Management Plan and Operations Environmental Management Plan must contain provisions to ensure that Transgrid will comply with all relevant conditions or requirements of the Planning Approvals in relation to the TNA Connection Project to ensure that EnergyCo complies with and does not breach the conditions of the Planning Approvals.
- (e) Transgrid is responsible for consulting with stakeholders and obtaining Approvals as required under the Planning Approvals for the Environmental Management Documents. Transgrid must submit each Environmental Management Document to EnergyCo for submission to the relevant reviewing authority under the Planning Approvals.
- (f) EnergyCo must promptly submit any Environmental Management Document received under clause 14.1(e) to the relevant reviewing authority under the Planning Approvals, and promptly give Transgrid any response received from the relevant reviewing authority in relation to the Environmental Management Document.

## **14.2 Implementation and compliance**

Transgrid must implement and comply with each Project Plan which has been developed in accordance with this Deed and updated in accordance with this clause 14.

# **15 Design and construction**

## **15.1 Design obligations**

- (a) Transgrid must design the TNA Works and provide the Transgrid Supplied Design in accordance with:
  - (i) the Technical Requirements;
  - (ii) all Applicable Laws;
  - (iii) any Variation Order;
  - (iv) the RNI Interface Deed (to the extent applicable); and
  - (v) the other requirements of this Deed.
- (b) Transgrid must provide the Design Documentation to EnergyCo at least 20 Business Days before Transgrid intends to issue the Design Documentation for construction purposes. Transgrid:
  - (i) must promptly amend the relevant Design Documentation where EnergyCo has provided comments that the Design Documentation does

not comply with the requirements of this Deed or the RNI Interface Deed (to the extent applicable); and

- (ii) otherwise may, but is not required to, implement any other comments received from EnergyCo in respect of the Design Documentation,

in each case, to the extent such comments have been provided to Transgrid within 10 Business Days of EnergyCo's receipt of the Design Documentation from Transgrid.

- (c) Transgrid may, after providing the Design Documentation to EnergyCo, use the Design Documentation at Transgrid's own risk.

## **15.2 Safety in design reviews**

- (a) The parties acknowledge that Transgrid will attend the Subsequent SIDR Meeting in accordance with the RNI Interface Deed.
- (b) To the extent that:
  - (i) any requirements identified by Transgrid in the Subsequent SIDR Meeting are additional or different to the requirements identified in the Initial SIDR Meeting (as defined in the RNI Interface Deed); and
  - (ii) it is agreed or finally determined that the requirements identified by Transgrid referred to in clause 15.2(b)(i) are necessary to meet the criteria or requirements of the Subsequent SIDR Meeting,

then EnergyCo must direct the RNI Network Operator to comply with the relevant requirements identified by Transgrid by issuing an ACEREZ Change (as defined in the RNI Interface Deed) to the RNI Network Operator under and in accordance with the RNI Project Deed.

## **15.3 Construction obligations**

- (a) Transgrid must construct the TNA Works (other than the Barigan Creek Switching Station and the Merotherie Lines) and provide the Transgrid Supplied Equipment in accordance with the requirements of this Deed, including:
  - (i) all Applicable Laws;
  - (ii) the Design Documentation;
  - (iii) the Technical Requirements;
  - (iv) any Variation Order; and
  - (v) any other requirements of this Deed.
- (b) Transgrid must, in respect of the TNA Works which will form part of Transgrid's Network, ensure that upon Practical Completion, the TNA Works comply with the operating requirements and standards (whether by Applicable Law, the Network Lease or contract) which apply to Transgrid's Network.
- (c) Transgrid accepts full responsibility for all construction means, methods and techniques used in the performance of the Transgrid Activities.



## 15.4 Transgrid Supplied Equipment

- (a) Transgrid must deliver and unload the Transgrid Supplied Equipment at the BCSS Land (as defined in the RNI Interface Deed) by the relevant date set out in Schedule 12 (*Transgrid Supplied Equipment*) of the RNI Interface Deed.
- (b) Transgrid must rectify any damage, lost items, missing items, incorrect items and defects in respect of the Transgrid Supplied Equipment after becoming aware, or receiving notice from EnergyCo or the RNI Network Operator, of the damage, lost item, missing item, incorrect item or defect.
- (c) For the period prior to the Transfer Date, Transgrid is responsible for the care of and accepts the risk of loss of and damage to each item of the Transgrid Supplied Equipment until it is delivered and unloaded at the BCSS Land (as defined in the RNI Interface Deed).
- (d) Transgrid is responsible for the care of and accepts the risk of loss of and damage to each item of the Transgrid Supplied Equipment that is collected for the purpose of rectifying damage or defects on and from the time of collection until the item or its replacement is delivered to and unloaded at the BCSS Land (as defined in the RNI Interface Deed).

## 16 Observation, testing and commissioning

### 16.1 Observation

- (a) EnergyCo may observe any part of the TNA Works and TNA Assets at any time by giving 5 Business Days' notice to Transgrid.
- (b) At all times during its observations, EnergyCo must:
  - (i) be accompanied by Transgrid's nominated representative and follow the safety and other reasonable instructions of Transgrid; and
  - (ii) minimise, as far as is reasonably practicable, any disruption to any employee, contractor or sub-contractor of Transgrid engaged at a TNA Site during observations and tests.

### 16.2 Obligation to perform Commissioning Tests

- (a) Transgrid must conduct Commissioning Tests of the TNA Assets.
- (b) Transgrid is responsible for:
  - (i) all pre-commissioning and start up commissioning, functional tests, performance tests and reliability tests of the TNA Assets (excluding the pre-commissioning of Barigan Creek Switching Station); and
  - (ii) testing and commissioning the TNA Assets,

except that the Merotherie Line connections will be tested and commissioned jointly with the RNI Network Operator in accordance with the RNI Interface Deed, and Transgrid will not be responsible or liable for any failure to test or commission the Merotherie Line connections where such failure arises in connection with the acts or omissions of the RNI Network Operator (other than to the extent such acts or omissions are expressly permitted under the RNI Interface Deed).

- (c) Transgrid must:
  - (i) ensure that the Commissioning Tests are carried out:
    - A. if applicable, in accordance with the Technical Requirements;
    - B. in accordance with the Testing and Commissioning Plan;
    - C. consistently with Good Industry Practice, the NER and all Applicable Laws; and
    - D. all other requirements of this Deed; and
  - (ii) notify EnergyCo when the Commissioning Tests in respect of the relevant TNA Assets have been successfully completed.

### 16.3 Witnessing of Commissioning Tests

- (a) Where:
  - (i) a Commissioning Test relates to Commissioning of BCSS Stage 1, Commissioning of BCSS Stage 2, Merotherie Lines Connection or Commissioning of BCSS Stage 3; or
  - (ii) the Technical Requirements otherwise state that EnergyCo is entitled to witness a Commissioning Test,

then:

  - (iii) Transgrid must give EnergyCo at least 5 Business Days' notice of the date, time and place of the Commissioning Test; and
  - (iv) EnergyCo may (but is not obliged to) attend and witness the conduct of the Commissioning Test.
- (b) Transgrid may postpone a Commissioning Test in respect of which it has given EnergyCo notice in accordance with clause 16.3(a)(iii).
- (c) If Transgrid postpones a Commissioning Test in accordance with clause 16.3(b), Transgrid must give EnergyCo at least 5 Business Days' notice of the rescheduled date, time and place of that Commissioning Test.

### 16.4 Failure of Commissioning Tests

Subject to the RNI Interface Deed and clause 17.3, if the Commissioning Tests of the TNA Assets are not successful, Transgrid must:

- (a) rectify the failure and carry out all necessary rectification work as soon as practicable;
- (b) update EnergyCo on the rectification of the failure; and
- (c) repeat the Commissioning Tests until they are successful (such repeat Commissioning Test to be notified under clause 16.3 if clause 16.3 applies to the relevant Commissioning Test).



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### 17.3 BCSS Defects

- (a) If, during the BCSS Defects Liability Period, Transgrid provides notice of a BCSS Defect in accordance with clause 15.1 of the RNI Interface Deed (including within the time required by that clause), EnergyCo must ensure the rectification of the BCSS Defect in accordance with this clause 17.3 and clause 15 of the RNI Interface Deed and subject to this clause 17.3 (to the extent of any inconsistency between this clause 17.3 and clause 15 of the RNI Interface Deed).
- (b) Subject to clauses 17.3(c) and 17.3(d), and to the RNI Network Operator and its Associates receiving the required access and outages in accordance with the RNI Interface Deed, EnergyCo must ensure the rectification of a BCSS Defect under clause 17.3(a) within a reasonable time after receipt of the notice referred to in that clause.
- (c) EnergyCo has no obligation to ensure that the rectification of a BCSS Defect that is not a Major BCSS Defect commences until after the Date of Connection Completion. EnergyCo must ensure that:
  - (i) the rectification of such BCSS Defect commences promptly after the Date of Connection Completion; and
  - (ii) the rectification of such BCSS Defect is completed within a reasonable time after the Date of Connection Completion,

subject to the RNI Network Operator and its Associates receiving the required access and outages in accordance with the RNI Interface Deed.
- (d) Where a BCSS Temporary Fix is implemented in accordance with the RNI Interface Deed, EnergyCo is not required to ensure that the rectification of the relevant Major BCSS Defect is completed until after the Date of Connection Completion. Subject to clause 17.3(e), EnergyCo must ensure that:
  - (i) rectification of the Major BCSS Defect continues after the Date of Connection Completion; and

- (ii) rectification of the Major BCSS Defect is completed within a reasonable time after the Date of Connection Completion,

subject to the RNI Network Operator and its Associates being given the required access and outages in accordance with the RNI Interface Deed.

- (e) Where:

- (i) a BCSS Temporary Fix is implemented in respect of a Major BCSS Defect; and
- (ii) the Independent Certifier has certified under clause 15.6 of the RNI Interface Deed that the Major Defect has been permanently rectified,

EnergyCo is not required to ensure completion of rectification works under clause 17.3(d).

- (f) Where:

- (i) Transgrid gives notice of a Major BCSS Defect or other BCSS Defect under clause 15.1 of the RNI Interface Deed;
- (ii) EnergyCo gives notice under clause 15.2 of the RNI Interface Deed that it does not believe there is a Major BCSS Defect or other BCSS Defect (as applicable); and
- (iii) the Independent Certifier determines under clause 15.8 of the RNI Interface Deed that there is a Major BCSS Defect or other BCSS Defect (as applicable),

EnergyCo must ensure the Major BCSS Defect or other BCSS Defect is rectified in accordance with this clause 17.3.

- (g) Subject to clause 17.3(h), where:

- (i) Transgrid gives notice of a BCSS Defect under clause 15.1 of the RNI Interface Deed;
- (ii) EnergyCo gives notice under clause 15.2 of the RNI Interface Deed that it does not believe there is a BCSS Defect; and
- (iii) the Independent Certifier determines under clause 15.8 of the RNI Interface Deed that there is no BCSS Defect,

EnergyCo has no obligation to ensure the rectification of the BCSS Defect.

- (h) Where Transgrid gives notice of a Major BCSS Defect under clause 15.1 of the RNI Interface Deed and it is determined under clause 15.8 of the RNI Interface Deed that there is no BCSS Defect or no Major BCSS Defect:

- (i) if rectification of the Major BCSS Defect has not commenced, EnergyCo is not required to ensure the Major BCSS Defect is rectified under clause 17.3(a); and
- (ii) if rectification of the Major BCSS Defect has commenced, EnergyCo must have the rectification work completed notwithstanding the determination under clause 15.8 of the RNI Interface Deed.

- (i) Where Transgrid gives notice of a Major BCSS Defect under clause 15.1 of the RNI Interface Deed and it is determined under clause 15.8 of the RNI Interface Deed

that there is no Major BCSS Defect, Transgrid must pay to EnergyCo, within 10 Business Days after written demand by EnergyCo, the reasonable costs that Transgrid would have incurred if Transgrid rectified the alleged Major BCSS Defect.

- (j) Without limiting clause 17.3(a), if a BCSS Defect is not rectified within the timeframe required under this clause 17.3, then:
  - (i) after reasonable consultation with EnergyCo (which cannot be less than 5 Business Days), Transgrid may notify EnergyCo of the date by which the relevant BCSS Defect is to be rectified (such date to be reasonable having regard to the nature of the relevant BCSS Defect and the time reasonably required to rectify the relevant BCSS Defect); and
  - (ii) if EnergyCo fails to procure that the BCSS Defect is rectified by the date notified in accordance with clause 17.3(j)(i), then Transgrid may (in its discretion) rectify the BCSS Defect itself or procure that the BCSS Defect is rectified by a third party, in a reasonable manner and at EnergyCo's cost, provided that if Transgrid does so:
    - A. EnergyCo shall have no responsibility for the work to rectify the relevant BCSS Defect; and
    - B. Transgrid must take reasonable steps to mitigate the costs incurred by it in carrying out, or having others carry out, such work to rectify the relevant BCSS Defect.
- (k) The cost of Transgrid rectifying or having a BCSS Defect rectified in accordance with clause 17.3(j) will be a debt due and payable from EnergyCo to Transgrid which must be paid by EnergyCo to Transgrid by no later than 10 Business Days following a written demand by Transgrid to EnergyCo and provision of any information required by clause 17.3(l).
- (l) Upon receiving a request from EnergyCo, Transgrid must provide:
  - (i) where the relevant BCSS Defect was rectified by a Subcontractor, all documentation, statements and information that have been provided by the Subcontractor to Transgrid in accordance with the terms of the Subcontract with respect to the costs payable by Transgrid to the Subcontractor regarding the rectification of the BCSS Defect; and
  - (ii) where the amount claimed by Transgrid from EnergyCo under clause 17.3(k) includes Transgrid's internal costs (including direct and overhead costs), Reasonable Evidence regarding those costs.
- (m) A reference to the rectification of a BCSS Defect in this clause 17.3 will include any physical damage to the BCSS Infrastructure Assets directly caused by a BCSS Defect, except to the extent the physical damage was caused by Transgrid's failure to comply with the requirements set out in the Operations and Maintenance Manuals (as defined in the RNI Interface Deed) for Barigan Creek Switching Station provided to Transgrid by the RNI Network Operator under the RNI Interface Deed.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





### 18.1 Practical Completion for TNA Upgrade Project, Facilitation of TL79 Overcrossing and Cut in to BCSS

- Official

- (iii) Facilitation of TL79 Over-crossing,

will achieve Practical Completion.
- (b) As soon as the TNA Works in respect of:
  - (i) a TNA Separable Portion that forms part of the TNA Upgrade Project; or
  - (ii) Cut in to BCSS; or
  - (iii) Facilitation of TL79 Over-crossing,

(as applicable) have, in Transgrid's opinion, achieved the stage of Practical Completion, Transgrid must give notice to EnergyCo.
- (c) Within 10 Business Days of EnergyCo's receipt of Transgrid's notice under clause 18.1(b), Transgrid will issue a certificate of Practical Completion stating the date on which the relevant TNA Separable Portion achieved Practical Completion.
- (d) The certificate provided by Transgrid to EnergyCo under clause 18.1(c) must include all supporting evidence as is reasonably necessary to allow EnergyCo to assess Transgrid's determination that Practical Completion of the relevant TNA Separable Portion occurred on the date stated by Transgrid, including any documentation or relevant information provided by a Subcontractor to Transgrid regarding a claim for completion under the relevant subcontract and any associated punch list.

## **18.2 Practical Completion for TNA Connection Project (other than Cut in to BCSS and Facilitation of TL79 Over-crossing)**

- (a) In respect of each TNA Separable Portion that forms part of the TNA Connection Project (other than Cut in to BCSS and Facilitation of TL79 Over-crossing), Transgrid must give the Independent Certifier, and EnergyCo:
  - (i) at least 20 Business Days'; and
  - (ii) 5 Business Days',

prior written notice respectively of the date on which it expects to satisfy the requirements for Practical Completion in respect of the relevant TNA Separable Portion, together with such supporting evidence as is reasonably necessary to allow the Independent Certifier to perform the TNA Certification Functions.
- (b) Transgrid must give the Independent Certifier (and EnergyCo) a written request for a certificate of Practical Completion for the relevant TNA Separable Portion that forms part of the TNA Connection Project (other than Cut in to BCSS and Facilitation of TL79 Over-crossing) when it believes it has satisfied the requirements for Practical Completion for that TNA Separable Portion.
- (c) Within 5 Business Days after receipt of the request under clause 18.2(b) relating to a TNA Separable Portion, the Independent Certifier must determine whether the requirements for Practical Completion referred to in the definition of Practical Completion in respect of the relevant TNA Separable Portion have been satisfied and either:
  - (i) if the requirements for Practical Completion referred to in the definition of Practical Completion in respect of the relevant TNA Separable Portion have been satisfied, issue a certificate of Practical Completion to Transgrid and EnergyCo, setting out the Date of Practical Completion (among other things); or

- (ii) if the requirements for Practical Completion referred to in the definition of Practical Completion in respect of the relevant TNA Separable Portion have not been satisfied, issue a notice to Transgrid and EnergyCo, which lists the items which remain to be provided to satisfy the requirements for Practical Completion of the relevant TNA Separable Portion.
- (d) If the Independent Certifier issues a notice under clause 18.2(c)(ii), Transgrid must continue with the Transgrid Activities in respect of the relevant TNA Separable Portion to satisfy the requirements in clause 18.2(c)(ii), and this clause 18.2 will reapply.

## **19 Timing for TNA Works and Delivery Plan**

### **19.1 Performance**

Transgrid must proceed with the Transgrid Activities with due expedition and without delay, in accordance with this Deed.

### **19.2 Dates for completion**

Transgrid must achieve Practical Completion of each TNA Separable Portion (excluding Facilitation of TL79 Over-crossing) by the relevant Date for Practical Completion.

### **19.3 Delivery Plan**

- (a) A high level indicative initial Delivery Plan with key events is included at Schedule 2.
- (b) Transgrid must prepare an updated Delivery Plan in respect of each TNA Separable Portion and provide a copy of the updated Delivery Plan in respect of that TNA Separable Portion to EnergyCo within 30 Business Days after the relevant TNA Separable Portion Commencement Date has occurred.
- (c) Transgrid can amend the Delivery Plan at any time so long as the Delivery Plan is consistent with Transgrid's obligations in clause 5.
- (d) If Transgrid amends the Delivery Plan, Transgrid must provide a copy of the amended Delivery Plan to EnergyCo within 15 Business Days after the amendment is made.
- (e) Any amendments made to the Delivery Plan in accordance with this clause 19.3 will not allow Transgrid:
  - (i) to derogate from its obligations under this Deed, including the obligation to achieve Practical Completion of a TNA Separable Portion by the relevant Date for Practical Completion; and
  - (ii) alter critical path items that affect Transgrid's obligations to achieve Practical Completion of a TNA Separable Portion by the relevant Date for Practical Completion,

other than to the extent such derogation or alteration is permitted under this Deed (including through an extension of time granted pursuant to this Deed).

## 20 Extensions of time

### 20.1 Notice of delay and corrective action plan

- (a) If Transgrid becomes aware of any matter which will, or is likely to, give rise to a delay in achieving Practical Completion of a TNA Separable Portion (excluding Facilitation of TL79 Over-crossing) by the Date for Practical Completion, Transgrid must:
  - (i) provide as soon as reasonably practicable a notice to EnergyCo setting out particulars of the delay;
  - (ii) provide a corrective action plan for the relevant TNA Separable Portion in the form set out in Schedule 3 setting out how it proposes to mitigate the effects of the delay; and
  - (iii) comply with the corrective action plan approved by EnergyCo.
- (b) In respect of the corrective action plan to be provided by Transgrid under clause 20.1(a):
  - (i) Transgrid is only required to include details of actions that Transgrid and, if applicable, its Associates propose to take to mitigate the effects of the relevant delay and is not required to include details around corrective action that is required to be taken by any third parties which are not Associates of Transgrid; and
  - (ii) Transgrid's proposal for mitigation and its ability to mitigate will depend on the nature of the delay and EnergyCo acknowledges and agrees that Transgrid may have limited ability to mitigate delay caused by third parties which are not Associates of Transgrid and will take this into account in approving any corrective action plan.

### 20.2 Extension of time for Extension Events

- (a) Subject to satisfaction of the conditions precedent to an extension of time under clause 20.4 and subject to clause 20.2(d), the Date for Practical Completion for the relevant TNA Separable Portion will be extended on a day for day basis upon the occurrence of an Extension Event which delays Transgrid in achieving Practical Completion of that TNA Separable Portion, except to the extent that the Extension Event:
  - (i) was in the reasonable control of Transgrid or a Subcontractor to prevent from occurring; or
  - (ii) otherwise occurs as a result of an act or omission of Transgrid or its Subcontractor, not being an act or omission which is:
    - A. expressly permitted under this Deed or the RNI Interface Deed; or
    - B. within the timeframe allowed by this Deed or the RNI Interface Deed; or
    - C. an act or omission of Transgrid or its Subcontractor that is described in the definition of Extension Event.
- (b) Transgrid must, as soon as reasonably practicable after becoming aware of the occurrence of an Extension Event, provide a notice to EnergyCo setting out particulars of the delay and any supporting information, including the likely duration

of delay and estimated date for extension to the Date for Practical Completion for the relevant TNA Separable Portion.

- (c) Transgrid must give EnergyCo a written notice within 10 Business Days after Transgrid first becomes aware that the relevant Extension Event is no longer continuing to delay Practical Completion of the relevant TNA Separable Portion. The notice provided under this clause 20.2(c) must include:
- (i) the extension of time to the Date for Practical Completion for the relevant TNA Separable Portion; and
  - (ii) reasonable particulars of the delay and any supporting information demonstrating the delay to Practical Completion of the relevant TNA Separable Portion.
- (d) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- (e) EnergyCo must, within 10 Business Days after receipt of the notice under clause 20.2(c), respond to Transgrid in writing:
- (i) accepting the extension of time set out in Transgrid's notice under clause 20.2(c); or
  - (ii) rejecting or amending the extension of time set out in Transgrid's notice under clause 20.2(c), in which case EnergyCo must include reasons for the difference with respect to the extension of time.
- (f) EnergyCo must act reasonably in its determination under clause 20.2(e).

### **20.3 Extension of time for non-Extension Events**

- (a) Without limiting Transgrid's rights to obtain an extension of time for Extension Events, if Transgrid:
- (i) considers that it will be delayed in achieving Practical Completion of a TNA Separable Portion by any other event that is not an Extension Event; and
  - (ii) intends to request an extension of time in respect of that event,
- then Transgrid must as soon as reasonably practicable after becoming aware of the occurrence of the delay, provide a notice to EnergyCo setting out particulars of the delay and any supporting information, including the likely duration of delay and estimated date for a requested extension to the Date for Practical Completion for the relevant TNA Separable Portion.

- (b) EnergyCo will act reasonably in approving or rejecting a request for an extension of time in respect of events that are not Extension Events, except to the extent the extension of time would affect a critical date for the Renewable Energy Zone or result in a material increase to the cost of the Renewable Energy Zone or TNA Project.

## 20.4 Conditions precedent to extension

- (a) It is a condition precedent to Transgrid's entitlement to an extension of time to the Date for Practical Completion for a TNA Separable Portion that:
- (i) Transgrid has notified EnergyCo of the relevant Extension Event in accordance with the requirements of this Deed, including clauses 20.1(a)(i), 20.2(b), 20.2(c) and 20.3(a) (as applicable); and
  - (ii) the Extension Event has caused or will cause Transgrid to be delayed in achieving Practical Completion of a TNA Separable Portion.
- (b) Transgrid must use best endeavours to mitigate the impacts of the Extension Event on the performance of the Transgrid Activities, to the extent within Transgrid's reasonable control, including (where possible) making reasonable mitigation proposals to EnergyCo (which can be included as part of the detailed corrective action plans submitted to and approved by EnergyCo, acting reasonably).

## 20.5 Further corrective action plan

Without limiting the rest of this clause 20, if Transgrid fails to achieve Practical Completion by the Date for Practical Completion (as may be extended in accordance with this clause 20) for a relevant TNA Separable Portion (excluding Facilitation of TL79 Over-crossing):

- (a) within 10 Business Days of the Date for Practical Completion of the TNA Separable Portion, Transgrid must provide a corrective action plan to EnergyCo in the form set out in Schedule 3 setting out how it proposes to mitigate the effects of the delay so as to achieve Practical Completion of the TNA Separable Portion as soon as practicable after the Date for Practical Completion and by the Practical Completion Sunset Date for the TNA Separable Portion; and
- (b) Transgrid must comply with the corrective action plan approved by EnergyCo, and must propose any necessary changes required to take into account actions, omissions or faults of third parties (which are not associates of Transgrid) that occurred after the corrective action plan was developed and approved by EnergyCo, and comply with such changes if approved by EnergyCo.

## 20.6 Disputes

Either party may refer any dispute in relation to this clause 20 in accordance with clause 28, including a dispute regarding the extension of time set out in the notice provided by Transgrid to EnergyCo under clause 20.2(c) or EnergyCo's response under clause 20.2(e).

## 21 Delay payments

## 21.1 Liquidated damages for delay to Upgrade Completion Stage

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[REDACTED]  
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■ **1. 2019年12月31日**

■ **2. 2020年12月31日**

■ **3. 2021年12月31日**

■ **4. 2022年12月31日**

■ **5. 2023年12月31日**

■ **6. 2024年12月31日**

■ **7. 2025年12月31日**

■ **8. 2026年12月31日**

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■ **10. 2028年12月31日**

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■ **132.**


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11/11/2016

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- (f) If a Date for Completion Stage is extended under this Deed after Transgrid has paid liquidated damages under clause 21.1(a), EnergyCo must promptly repay to Transgrid any liquidated damages received for the period up to (and including) the extended Date for Completion Stage.
- (g) The parties acknowledge and agree that the liquidated damages payable under clause 21.1(a) do not exceed a reasonable and good faith pre-estimate of the Loss that will be suffered or incurred by EnergyCo as a result of the relevant Upgrade Completion Stage not occurring by the relevant Date for Completion Stage and are not a penalty.
- (h) If Transgrid's liability for any liquidated damages under clause 21.1(a) is or becomes unenforceable for any reason (including because the liquidated damages are a penalty), EnergyCo may claim from Transgrid, and Transgrid must pay, damages at Law as an alternative to the liquidated damages.
- (i) The liquidated damages payable under clause 21.1(a) and damages at Law under clause 21.1(h) are EnergyCo's sole and exclusive remedy against Transgrid in respect of Transgrid's failure to achieve the Upgrade Completion Stages by the Dates for Completion Stage, except for:
- (i) any rights in relation to the issuing directions under clause 26 (to the extent applicable); and
  - (ii) any rights in relation to fraud, criminal acts or wilful misconduct.

## 21.2 DSP Adjustment

- (a) If Transgrid is liable to pay to EnergyCo liquidated damages under clause 21.1, Transgrid must seek a DSP Adjustment to decrease the Determined Service Payments by the amount of any liquidated damages under clause 21.1 payable by Transgrid.
- (b) Transgrid must seek a DSP Adjustment under clause 21.2(a) within 20 Business Days of the Date of Practical Completion for the Upgrade Completion Stage.
- (c) If a DSP Adjustment under clause 21.2(a) is approved in a Revenue Determination Review in respect of any liquidated damages for which Transgrid is liable under clause 21.1, the DSP Adjustment shall be in full satisfaction of Transgrid's liability under clause 21.1.



- (d) To the extent that a DSP Adjustment is not approved in a Revenue Determination Review in respect of any liquidated damages for which Transgrid is liable under clause 21.1 for which a DSP Adjustment was sought, then:
  - (i) Transgrid must pay to EnergyCo such amounts for which Transgrid is liable under clause 21.1 to the extent to which the DSP Adjustment was not approved, within 15 Business Days after Transgrid has received a copy of the Revenue Determination Review; and
  - (ii) payment of the amounts described in clause 21.2(d)(i) shall be in full satisfaction of Transgrid's liability under clause 21.1 in respect of the relevant Completion Stage.

### 21.3 Delay Costs

- (a) Subject to this clause 21.3, where Transgrid has been granted an extension of time to the Date for Practical Completion for a TNA Separable Portion under clause 20 due to delay to the relevant TNA Separable Portion as a result of a Compensation Event, EnergyCo must pay Transgrid such extra direct costs reasonably incurred and caused by the Compensation Event (**Delay Costs**) as full satisfaction for any cost, loss or damage suffered or sustained by Transgrid by reason of the delay or disruption.
- (b) The right under clause 21.3(a) (and its associated extension of time) is Transgrid's sole and exclusive remedy in respect of any Compensation Event, except for any rights in relation to fraud, criminal acts or wilful misconduct.
- (c) If:
  - (i) the extension of time referred to in clause 21.3(a) is an extension of time to the Date for Practical Completion of a TNA Separable Portion where Transgrid Activities required for the Practical Completion of that TNA Separable Portion have been subcontracted to a Subcontractor; and
  - (ii) the relevant Subcontract with the Subcontractor includes a daily cap on the delay costs payable by Transgrid to the Subcontractor in connection with the relevant delay (**Subcontractor Delay Cost Cap**),

then the total amount payable by EnergyCo to Transgrid under clause 21.3(a) in respect of delay costs payable by Transgrid to the Subcontractor in relation to a single day will be limited to the Subcontractor Delay Cost Cap.
- (d) The total amount payable by EnergyCo to Transgrid under clause 21.3(a) in respect of internal costs incurred by Transgrid in relation to a single day will be limited to [REDACTED].
- (e) Delay Costs do not include any amounts that Transgrid is or will be entitled to be paid under another provision of this Deed.
- (f) It is a condition precedent to Transgrid's entitlement to claim Delay Costs that Transgrid has:
  - (i) taken all reasonable steps to avoid or mitigate all Delay Costs it incurs under clause 21.3(a); and
  - (ii) where the Delay Costs relate to costs:
    - A. claimed by a Subcontractor from Transgrid in accordance with a Subcontract, all documentation, statements and information that have been provided by the Subcontractor to Transgrid in

accordance with the terms of the Subcontract with respect to the relevant Delay Costs; or

B. directly incurred by Transgrid in performing the Transgrid Activities, Reasonable Evidence,

in each case as required to verify that the Delay Costs are prudent, efficient and reasonable for the purposes of the EII Act, EII Regulations and EII Guidelines.

(g) Transgrid must seek a DSP Adjustment to increase the Determined Service Payments to reflect any Delay Costs paid by EnergyCo under this clause 21.3.

**22**

[REDACTED]

**22.1**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



- A. interest in land;
  - B. Approvals; and
  - C. third party consents and agreements,

required by Transgrid to carry out the Variation;
- (iv) the cost or savings consequences of the proposed Variation;
- (v) necessary amendments to this Deed to give effect to the proposed Variation;
- (vi) the effect (if any) that Transgrid anticipates the Variation will have on the Delivery Plan and the time required to achieve Practical Completion of a TNA Separable Portion; and
- (vii) any other matter Transgrid considers relevant to carrying out the Variation described in the Variation Proposal.
- (c) Notwithstanding any other clause in this Deed, Transgrid is not required to make a Variation Proposal or follow the process for Variations set out in this clause 23 in relation to Minor Variations. Transgrid may make any Minor Variations it deems required from time to time provided that the Minor Variations will not affect Transgrid's ability to comply with the terms of this Deed (other than any terms which require Transgrid to seek consent from EnergyCo for a non-material change to the documents, activities or works that may be subject to a Minor Variation, as such terms are subject to this clause 23.2(c)).

### **23.3 Election by EnergyCo**

- (a) EnergyCo and Transgrid must meet within 15 Business Days of EnergyCo's receipt of a Variation Proposal under clause 23.2(a) or updated Variation Proposal under clause 23.4(a) to discuss the proposed Variation.
- (b) Within 5 Business Days of meeting under clause 23.3(a) or such longer period as the parties may agree, EnergyCo must either:
  - (i) advise Transgrid that EnergyCo requires further information or clarification with respect to the Variation Proposal; or
  - (ii) subject to clause 23.3(c):
    - A. accept the Variation Proposal; or
    - B. reject the Variation Proposal.
- (c) The Parties acknowledge and agree that:
  - (i) EnergyCo must approve a Variation Proposal that Transgrid has provided under clause 23.2(a)(i) if:
    - A. before a Planning Approval is granted, it does not require modification to the application that has been submitted for the Planning Approval;
    - B. after a Planning Approval is granted, it does not require a modification to the Planning Approval;

- C. it does not require a change to the Technical Requirements for the TNA Works;
  - D. it does not delay Transgrid achieving Practical Completion by the relevant Date for Practical Completion; and
  - E. it does not have an adverse impact on the Renewable Energy Zone or Renewable Energy Zone activities;
- (ii) where a Variation Proposal fails to meet one or more of the requirements in clause 23.3(c)(i), EnergyCo may give or withhold approval to a Variation Proposal in its absolute discretion.
- (d) Despite clause 23.3(c), EnergyCo must approve a Variation Proposal which is required for Transgrid to comply with Applicable Laws in relation to the TNA Works.
- (e) If EnergyCo fails to advise Transgrid of its decision in respect of a Variation Proposal in accordance with and within the time period specified in clause 23.3(b), EnergyCo will be deemed to have accepted the relevant Variation Proposal.

#### **23.4 Further information**

If EnergyCo issues a notice in accordance with clause 23.3(b)(i):

- (a) Transgrid must provide EnergyCo with an updated Variation Proposal addressing the issues raised by EnergyCo; and
- (b) clause 23.3 will reapply to the updated Variation Proposal.

#### **23.5 Acceptance of Variation Proposal**

If EnergyCo accepts the Variation Proposal in accordance with clause 23.3(b)(ii)A, EnergyCo must issue a Variation Order directing Transgrid to implement the Variation on the basis of the Variation Proposal (as accepted by EnergyCo) in accordance with clause 23.10.

#### **23.6 Rejection of Variation Proposal**

- (a) If EnergyCo issues a notice rejecting the Variation Proposal in accordance with clause 23.3(b)(ii)B, EnergyCo:
  - (i) must set out the reasons why the Variation Proposal was rejected; and
  - (ii) may, in its absolute discretion, require that the parties consult in accordance with clause 23.6(b)(ii) regarding the issues raised in the notice.
- (b) If required by EnergyCo in a notice given pursuant to clause 23.6(a)(ii), the parties must promptly:
  - (i) discuss the Variation Proposal and the reasons why it was rejected by EnergyCo (as set out in EnergyCo's notice); and
  - (ii) use their reasonable endeavours to agree on a mutually acceptable resolution to the matters set out in the Variation Proposal which are in dispute.

#### **23.7 Parties reach agreement**

If the parties reach agreement under clause 23.6(b) on the disputed matters in the Variation Proposal, EnergyCo may either:

- (a) issue a Variation Order directing Transgrid to implement the Variation on the basis of the Variation Proposal, as varied by the agreement of the parties (as accepted by EnergyCo) in accordance with clause 23.10; or
- (b) require that Transgrid revise the Variation Proposal to reflect the agreement of the parties and, within 15 Business Days (or such longer period as is agreed by EnergyCo (acting reasonably)), resubmit the revised Variation Proposal and clause 23.2 will re-apply.

### **23.8 If parties fail to reach agreement**

If the parties are unable to reach agreement under clause 23.6(b) or EnergyCo has rejected a Variation Proposal without taking further action, the Variation Proposal will not proceed and EnergyCo will not be entitled to issue a Variation Order to require Transgrid to implement the Variation.

### **23.9 EnergyCo directed Variation Order**

- (a) Notwithstanding anything in this clause 23, EnergyCo may issue a Variation Order for a Variation:

- (i) without first issuing an EnergyCo Variation Request with respect to the relevant Variation; or
- (ii) if an EnergyCo Variation Request has been issued with respect to the relevant Variation, without accepting a Variation Proposal under clause 23.3(b)(ii)A or reaching agreement under clause 23.7,

provided that the following conditions are satisfied:

- (iii) the Variation is required by the RNI Network Operator or failing to issue the Variation Order will have a material adverse impact on the RNI Network Operator or the RNI Project;
- (iv) performing the Variation will not have a negative operational or safety impact on Transgrid, including, without limitation, any operational or safety impact on Transgrid's Network and, its responsibilities for Transgrid's Network generally, and its ability to comply with its transmission operator's licence and Applicable Laws;
- (v) the Variation does not alter Transgrid's rights or obligations under the RNI Interface Deed;
- (vi) the Variation does not have an adverse impact on the timeframes that have been allocated for Transgrid to energise and commission Barigan Creek Switching Station or the Merotherie Lines;
- (vii) performing the Variation will not have an adverse impact on Transgrid's ability to perform its obligations under this Deed or the RNI Interface Deed; and
- (viii) either:
  - A. the parties agree that the proposed costs for the Variation are [REDACTED]; or
  - B. if there is a disagreement between the parties regarding the proposed cost of the Variation, then either party has a reasonable basis and supporting evidence to justify that the

proposed costs of the Variation are [REDACTED].

- (b) Without limiting clause 23.10(a)(i), Transgrid may dispute any aspect of a Variation Order issued under clause 23.9 in accordance with clause 28.

### **23.10 Transgrid to implement Variation**

If EnergyCo issues a Variation Order pursuant to clause 23.5, 23.7(a) or 23.9:

- (a) Transgrid must:
  - (i) implement the Variation in accordance with the Variation Order and the requirements of this Deed; and
  - (ii) notify EnergyCo when it believes that the Variation has been completed;
- (b) Transgrid will be relieved of its obligations under this Deed to the extent specified in the Variation Order; and
- (c) the Dates for Practical Completion will be extended as specified in the Variation Order.

### **23.11 Variation requiring a Planning Approval Modification**

Where and to the extent a Planning Approval Modification is required in order to implement a Variation:

- (a) to the TNA Connection Project:
  - (i) EnergyCo must use reasonable endeavours to obtain the Planning Approval Modification; and
  - (ii) subject to clause 23.12 and Transgrid's entitlements to an extension of time under clause 20 and Delay Costs under clause 21.3, EnergyCo will not be responsible to Transgrid for any time and cost impacts arising from the application for, or any contributions or approval to, the Planning Approval Modification;
- (b) to the TNA Upgrade Project:
  - (i) EnergyCo will have no obligations in relation to obtaining the Planning Approval Modification; and
  - (ii) Transgrid must prepare all supporting documentation required to obtain the Planning Approval Modification.

### **23.12 Variation costs**

- (a) EnergyCo will bear all costs associated with:
  - (i) carrying out a Variation that was the subject of an EnergyCo Variation Request (including a Variation in respect of which the parties reach agreement that was initially the subject of an EnergyCo Variation Request); or
  - (ii) carrying out a Variation that is the subject of a Variation Order issued by EnergyCo pursuant to clause 23.9.

- (b) Transgrid will bear all costs associated with carrying out a Variation that was proposed by Transgrid and will include such costs in its initial Revenue Determination application or any subsequent Revenue Proposal (as applicable).

### 23.13 DSP Adjustment

If EnergyCo issues a Variation Order pursuant to:

- (a) clause 23.5 or 23.7(a) in respect of a Variation that was the subject of an EnergyCo Variation Request; or
- (b) clause 23.9,

Transgrid must:

- (c) seek a DSP Adjustment to reflect the costs referred to in clause 23.12(a) and any costs saved as a result of the Variation; and
- (d) unless EnergyCo directs otherwise, proceed with the Variation.

## 24 Augmentations

### 24.1 Proposal Notice

- (a) Either Party may propose an Augmentation by giving a notice to the other party (**Proposal Notice**). A Proposal Notice must set out sufficient detail for the recipient to properly assess the likely scope and scale of the proposed Augmentation, the Augmentation process and potential impacts on the existing TNA Assets and Transgrid's business.
- (b) For the avoidance of doubt, notwithstanding that a Proposal Notice may be given by either party under clause 24.1(a), the decision to issue an Initiation Notice under clause 24.2 and progress an Augmentation Proposal in accordance with this clause 24 is solely a matter for EnergyCo in its absolute discretion.

### 24.2 Design and technical studies

EnergyCo may, at any time, request that Transgrid conducts, and subject to clause 24.9(a) Transgrid must conduct, design and technical studies to assess the commercial and technical feasibility of a proposed Augmentation (an **Initiation Notice**). An Initiation Notice must set out sufficient detail to enable Transgrid to properly assess the likely scope and scale of the proposed Augmentation, the Augmentation process and potential impacts on the existing TNA Network Assets and Transgrid's business.

### 24.3 Requests for information

- (a) The parties acknowledge and agree that EnergyCo may require initial information in relation to the project definition of a proposed Augmentation before it issues either a Notice of Proposed Augmentation or an Augmentation Proposal Request.
- (b) At any time, EnergyCo may request, and subject to clause 24.9(a) Transgrid must provide, information to assist EnergyCo in its consideration of a proposed Augmentation. The information requested may include:
  - (i) information in relation to the procurement and delivery aspects of the proposed Augmentation;
  - (ii) information in relation to the operation and maintenance aspects of the proposed Augmentation;



- (iii) information in relation to the financing of the proposed Augmentation, including how it will interface with the existing commercial structure for the TNA Assets; and
- (iv) any other information considered relevant by EnergyCo (including any preliminary or indicative pricing for any aspect of the proposed Augmentation).
- (c) At the request of either party, Transgrid and EnergyCo will meet to discuss the information provided by Transgrid under clause 24.3(b).

#### 24.4 Notice of Proposed Augmentation

- (a) EnergyCo may, at any time, issue to Transgrid a notice titled “Notice of Proposed Augmentation” setting out details in respect of a proposed Augmentation (**Notice of Proposed Augmentation**). These details may include:
  - (i) EnergyCo’s objectives for the proposed Augmentation;
  - (ii) a description of the proposed Augmentation;
  - (iii) the proposed scope and contractual structure for the delivery of the proposed Augmentation;
  - (iv) desired timeframes for the delivery of the proposed Augmentation;
  - (v) desired financing and commercial structure for the proposed Augmentation; and
  - (vi) any other information considered relevant by EnergyCo.
- (b) Following the issue of a Notice of Proposed Augmentation under clause 24.4(a), the parties must meet to discuss how the project definition, planning and development of the proposed Augmentation should be carried out in a manner which:
  - (i) supports the achievement of reasonable, prudent and efficient costs for the Augmentation and value for money outcomes for New South Wales electricity consumers (including taking account of the benefits that the Augmentation can provide to New South Wales electricity consumers);
  - (ii) ensures transparency of procedures and negotiations between EnergyCo and Transgrid; and
  - (iii) is collaborative, efficient and effective.
- (c) EnergyCo may, taking into account any of the matters discussed in accordance with clause 24.4(b), establish a process to progress the proposed Augmentation, which may include:
  - (i) the Augmentation process being undertaken in stages;
  - (ii) Transgrid being required to develop and submit an Augmentation Proposal in stages;
  - (iii) Transgrid being required to submit interim deliverables or achieve interim milestones; and
  - (iv) the scope of, and principles for, an interactive process to be established by the parties to enable the parties, prior to EnergyCo issuing an

Augmentation Proposal Request under clause 24.5(a), to further consult on the proposed Augmentation.

## 24.5 Augmentation Proposal Requests

- (a) EnergyCo may at any time (and without limiting the number of times EnergyCo may do so) following the processes described in clause 24.4, issue to Transgrid a request titled "Augmentation Proposal Request" (**Augmentation Proposal Request**) which:
  - (i) sets out the details of the proposed Augmentation or any part or stage thereof, including the matters set out in clause 24.4(a);
  - (ii) may mandate a closing date and time by which Transgrid is required to respond with its Augmentation Proposal pursuant to clause 24.6 (which must allow Transgrid a reasonable period to develop the Augmentation Proposal); and
  - (iii) may be issued in parts or stages.
- (b) The Augmentation Proposal Request must be accompanied by draft Augmentation Documents setting out EnergyCo's proposed risk allocation and commercial terms in respect of the proposed Augmentation with an Augmentation Proposal Request.
- (c) The draft Augmentation Documents must be based on and substantially consistent with the commercial approach, performance standards and risk allocation under this Deed, except to the extent that any aspect of the type, scope or structure of the proposed Augmentation necessarily requires otherwise.
- (d) EnergyCo may at any time amend, clarify or replace the draft Augmentation Documents.

## 24.6 Augmentation Proposal

- (a) If EnergyCo issues an Augmentation Proposal Request and subject to clause 24.9(a), Transgrid must prepare and submit an Augmentation Proposal (or the relevant part of the Augmentation Proposal, as applicable) to EnergyCo in response as soon as practicable and at the latest by the date and time set out in the Augmentation Proposal Request (provided that such date and time will be discussed and agreed by the parties as the reasonable period for preparation of the Augmentation Proposal, having regard to the nature of the Augmentation and work required to prepare the Augmentation Proposal, prior to the Augmentation Proposal Request being issued) or such later date as agreed by the parties in writing.
- (b) Any Augmentation Proposal submitted by Transgrid must:
  - (i) respond to all matters set out in the relevant Augmentation Proposal Request; and
  - (ii) be prepared in accordance with clause 24.6(c).
- (c) Any Augmentation Proposal submitted by Transgrid must be prepared:
  - (i) to meet EnergyCo's objectives for the Augmentation (as stated in the Augmentation Proposal Request);
  - (ii) on the basis that Transgrid is a willing, efficient and competent provider of the Augmentation in an efficient and competitive market;

- (iii) so as to assist EnergyCo and the Regulator to determine whether the costs of the Augmentation comply with the requirements of the EII Act, EII Regulations and EII Guidelines;
- (iv) so as to minimise, to the extent possible, the disruption to the TNA Assets and other adverse impacts arising from the delivery of the Augmentation; and
- (v) in the form of an offer capable of complete evaluation and acceptance by EnergyCo.

## **24.7 Response to Augmentation Proposal**

- (a) EnergyCo may, by written notice to Transgrid:
  - (i) accept an Augmentation Proposal;
  - (ii) reject an Augmentation Proposal, setting out the reasons why the Augmentation Proposal was rejected, and require Transgrid to negotiate in good faith with EnergyCo with a view to reaching agreement on all aspects of the Augmentation Proposal;
  - (iii) at any time, notify Transgrid that it requires an amendment or re-structure of the proposed Augmentation (which may include reducing, increasing or varying the scope of the Augmentation), providing full details of the proposed amendments in a revised Augmentation Proposal Request, and request that Transgrid prepare and submit a revised Augmentation Proposal in accordance with clause 24.6; or
  - (iv) at any time, notify Transgrid that it withdraws the Augmentation Proposal Request and will not proceed with the proposed Augmentation.
- (b) If EnergyCo accepts an Augmentation Proposal (in whole or in part):
  - (i) Transgrid must prepare and submit an application for a revenue determination from the Regulator for the proposed Augmentation in accordance with clause 24.8; and
  - (ii) the parties must work towards financial close or contractual close for the Augmentation (as applicable), including by agreeing the Augmentation Documents.
- (c) If EnergyCo requires Transgrid to enter into negotiations in accordance with clause 24.7(a)(ii):
  - (i) Transgrid must meet with EnergyCo at times agreed between the parties and provide EnergyCo with further information that Transgrid can reasonably provide that enables EnergyCo to assess and negotiate the Augmentation Proposal; and
  - (ii) if the parties reach agreement on all aspects of the Augmentation Proposal following the negotiations, EnergyCo may give Transgrid written notice accepting the Augmentation Proposal (as varied by those negotiations) and clause 24.7(b) will apply.
- (d) EnergyCo will not be obliged to proceed with any Augmentation proposed in an Augmentation Proposal Request, and reserves the right at any time to:
  - (i) reduce or vary the scope of the Augmentation; or

- (ii) pursue the Augmentation through other means, including under the EII Act.
- (e) The parties acknowledge that acceptance of an Augmentation Proposal by EnergyCo does not constrain the Regulator from making a revenue determination for the proposed Augmentation in accordance with the EII Act, EII Regulations and EII Guidelines.

## 24.8 Regulatory process

- (a) If EnergyCo accepts an Augmentation Proposal (in whole or in part), EnergyCo will recommend the Augmentation to the Consumer Trustee under section 30(4) of the EII Act.
- (b) EnergyCo must promptly notify Transgrid when EnergyCo has recommended the Augmentation to the Consumer Trustee.
- (c) Transgrid must give EnergyCo notice and a certified copy of an authorisation for the proposed Augmentation given under section 31(2) of the EII Act (**Augmentation Authorisation**) within one Business Day after the Augmentation Authorisation is received from the Consumer Trustee.
- (d) If the Consumer Trustee does not authorise the proposed Augmentation under section 31(2) of the EII Act:
  - (i) the Augmentation (as submitted to the Consumer Trustee in accordance with clause 24.8(a)) will not proceed; and
  - (ii) EnergyCo may elect to discontinue any processes under this clause 24.
- (e) Transgrid must:
  - (i) submit a Revenue Proposal for the proposed Augmentation to the Regulator in accordance with section 38 of the EII Act (**Augmentation Revenue Proposal**) including such information as is required by the Regulator under the EII Guidelines; and
  - (ii) use its best endeavours to obtain a Revenue Determination under section 38 of the EII Act for the delivery of the Augmentation in accordance with and subject to the EII Act, EII Regulations and EII Guidelines and this clause 24.
- (f) Transgrid must prepare the Augmentation Revenue Proposal after it has received the Augmentation Authorisation.
- (g) The Augmentation Revenue Proposal must be consistent with the Augmentation Proposal approved by EnergyCo and Transgrid will provide the Augmentation Revenue Proposal to EnergyCo for its comments, which Transgrid will take into account prior to submission of the Augmentation Revenue Proposal to the Regulator.
- (h) Transgrid must, within a reasonable timeframe, give to the Regulator any information or clarification regarding the Augmentation Revenue Proposal or the proposed Augmentation requested by the Regulator for the purposes of making an Augmentation Review Determination.

**24.9 Costs**

- (a) Subject to clause 24.9(b), to the extent Transgrid will incur any additional costs or expenses in:
- (i) conducting design and technical studies requested by EnergyCo under clause 24.2;
  - (ii) providing information requested by EnergyCo under clause 24.3(b);
  - (iii) progressing a proposed Augmentation as required by EnergyCo under clause 24.4; or
  - (iv) preparing and amending an Augmentation Proposal as required by EnergyCo under clause 24.5 to 24.7 (inclusive),

Transgrid is only obliged to perform such activities to the extent Transgrid agrees to do so or EnergyCo agrees to reimburse the costs and expenses reasonably and properly incurred by Transgrid in doing so.

- (b) Costs to which clause 24.9(a) does not apply to are those costs and expenses incurred by Transgrid in negotiating contractual arrangements with EnergyCo, including any agreement referred to in clause 24.10(b)(iv) and the Augmentation Documents.
- (c) Other than as set out in this clause 24.9, Transgrid will be responsible for its own costs and expenses incurred with respect to compliance with its obligations under this clause 24 and will have no entitlement to make any Claim against EnergyCo with respect to any such costs.

**24.10 Process agreements**

- (a) The parties will endeavour to agree and enter into an agreement in relation to some or all of the activities and processes contemplated by this clause 24. EnergyCo may make more than one request and there may be more than one agreement entered into.
- (b) Matters which EnergyCo may request are dealt with in an agreement under clause 24.10(a) include any or all of the following:
- (i) the performance by Transgrid of any or all of the activities contemplated by this clause 24;
  - (ii) the timing, stages and milestones for the performance by Transgrid of activities contemplated by this clause 24;
  - (iii) oversight by EnergyCo and Regulator of procurement processes where appropriate and relevant; and
  - (iv) the reimbursement of costs by EnergyCo to the extent contemplated by clause 24.9.

**24.11 No Claim**

- (a) Nothing in this Deed restricts EnergyCo's right to develop or procure an addition, increase, extension, expansion, augmentation, modification or change to the NSW Electricity Network, including where carried out by third parties, whether within or outside of the Renewable Energy Zone.

- (b) Transgrid will not be entitled to make any Claim against EnergyCo arising out of or in connection with a failure by EnergyCo to exercise its rights under this clause 24 or a failure by the parties to reach an agreement on a proposed Augmentation.

## 25 Force Majeure

- (a) If, as a result of a Force Majeure Event, a party becomes unable, wholly or in part, to perform any of its obligations under this Deed or is delayed in performing those obligations:
  - (i) the affected party must promptly give notice to the other party setting out full details of the Force Majeure Event and the reasons for the Force Majeure Event preventing that party from, or delaying that party from, performing the affected obligations under this Deed;
  - (ii) the affected obligations identified in the notice referred to in clause 25(a)(i) will be suspended but only so far as, and for so long as, the performance of those obligations is affected by the Force Majeure Event; and
  - (iii) the affected party must use its best endeavours to mitigate the impact of the Force Majeure Event and overcome or remove the effects of the Force Majeure Event as quickly as possible.
- (b) Upon completion of the Force Majeure Event, the affected party must as soon as reasonably practicable recommence the performance of the affected obligations.
- (c) A Force Majeure Event does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in accordance with this Deed (including where the obligation to pay money falls due after the occurrence of that event).
- (d) Where the affected party is Transgrid:
  - (i) any extension of time to the Dates for Practical Completion as a result of a Force Majeure Event will be determined in accordance with clause 20; and
  - (ii) Transgrid's obligations under this clause 25 are in addition to and do not reduce Transgrid's obligations and the requirements to notify of an extension of time under clause 20.

## 26 Default

### 26.1 Default notice

If a Default occurs, then the non-defaulting party may give the defaulting party a notice in writing (**Default Notice**) specifying:

- (a) that the Default has occurred; and
- (b) the particulars of the Default and the circumstances constituting the Default.

### 26.2 Cure Period for Performance Default

If a Default Notice is given in respect of a Performance Default by either party (a **Relevant Default**), then:

- (a) the defaulting party must prepare a draft Cure Plan to the extent that the Performance Default:
  - (i) can be cured, which details the actions to be taken by the party to cure the Performance Default; or
  - (ii) cannot be cured, which details the actions to be taken by the party to mitigate the adverse effects of the Performance Default and to ensure that the Performance Default does not recur,

and submit it to the non-defaulting party within 10 Business Days after the receipt of the Default Notice;
- (b) the Cure Period specified in the draft Cure Plan must be the shortest period of time that could reasonably be expected to allow the defaulting party, acting diligently and in accordance with Good Industry Practice, sufficient time to:
  - (i) cure the Relevant Default (or if the Relevant Default cannot be cured, to mitigate the adverse effects of the Relevant Default and to ensure that the Relevant Default does not recur); and
  - (ii) demonstrate such cure (or mitigation strategy) to the reasonable satisfaction of the non-defaulting party in accordance with tests (if any) set out in the draft Cure Plan;
- (c) the non-defaulting party may comment on the draft Cure Plan submitted to it by the defaulting party and any comments must be provided to the defaulting party within 10 Business Days after receipt of the draft Cure Plan;
- (d) if the non-defaulting party does make any comments on the draft Cure Plan, the defaulting party must:
  - (i) incorporate the comments of the non-defaulting party into the draft Cure Plan to the extent they are:
    - A. reasonable;
    - B. consistent with Good Industry Practice (including, without limitation, any comments relating to the length of the Cure Period); and
    - C. consistent with that party's obligations under this Deed; and
  - (ii) re-submit the draft Cure Plan to the non-defaulting party,

within 10 Business Days after receipt of any comments from non-defaulting party;
- (e) the "**Settled Cure Plan**" will be:
  - (i) if the defaulting party is not required to alter and re-submit the draft Cure Plan under clause 26.2(d), the draft submitted under clause 26.2(a); or
  - (ii) otherwise, the draft Cure Plan submitted under clause 26.2(d)(ii);
- (f) the Cure Period will immediately cease if the defaulting party:
  - (i) ceases to act diligently and in accordance with Good Industry Practice to carry out the Settled Cure Plan; and

- (ii) fails to act diligently and in accordance with Good Industry Practice to carry out the Settled Cure Plan despite a notice from the non-defaulting party requesting it to do so; and
- (g) to the extent that default by the non-defaulting party during the Cure Period has delayed the defaulting party in curing the Relevant Default, provided that the defaulting party has acted diligently and in accordance with Good Industry Practice, the Cure Period will be extended by such time as is sufficient to allow for the delay caused by the default by the non-defaulting party.

## 26.3 Failure to cure

If the defaulting party does not:

- (a) commence to cure the Performance Default (where the Performance Default can be cured) or implement the Settled Cure Plan (where the Performance Default cannot be cured) within 10 Business Days after the Settled Cure Plan applies;
- (b) where the Performance Default can be cured and the defaulting party has commenced to cure the Performance Default within 10 Business Days after the Settled Cure Plan applies, cure the relevant Performance Default within the Cure Period specified in the Settled Cure Plan; or
- (c) cure a Financial Default within the Cure Period,

**(EOD Cure Breach)** then the non-defaulting party may, in addition to any other rights and remedies under this Deed:

- (d) (except in the case of clause 26.3(c)) direct the other party to undertake such actions as may be necessary in order to cure the EOD Cure Breach and progress the TNA Project, and the defaulting party will implement and act in accordance with that direction; and
- (e) may exercise all available legal and equitable remedies including suing for compensation or seeking orders for declaration, injunctive relief or damages or such other orders and relief as it may think fit; and
- (f) (except in the case of clause 26.3(c)) if the defaulting party is Transgrid, a **Direction Breach** will occur.

## 26.3A Interest for Financial Default

In the case of a Financial Default, in addition to the payment of the amount which is the subject of the Financial Default, the defaulting party must pay interest to the other party on that amount at [REDACTED] for each day from the due date for payment until the amount plus any accrued interest on that amount (calculated on actual days elapsed and a 365-day year) is paid in full.

## 26.4 EnergyCo Remedial Action

- (a) If a Direction Breach has occurred and Transgrid has not remedied the Direction Breach to the satisfaction of EnergyCo (acting reasonably), subject to clause 26.5, EnergyCo may elect to take remedial action to exercise, or direct the exercise of, some or all of Transgrid's rights and obligations under a Subcontract to deliver the TNA Project (**EnergyCo Remedial Action**).
- (b) Notwithstanding any other provision of this Deed, where a Relevant Default is a breach by Transgrid of its obligations under clause 5.5 then:
  - (i) there will be no Direction Breach with respect to that Relevant Default;



- (ii) EnergyCo will not be entitled to direct any EnergyCo Remedial Action with respect to that Relevant Default; and
- (iii) EnergyCo's rights with respect to the Relevant Default are as set out in clause 26.3(d) and 26.3(e).

## 26.5 Nature of EnergyCo Remedial Action

- (a) The parties agree that:
  - (i) prior to undertaking any EnergyCo Remedial Action, EnergyCo will consult with Transgrid; and
  - (ii) Transgrid's obligations under this Deed to deliver the TNA Project (including in respect of testing, energisation and commissioning) in respect of any matters that are excluded from EnergyCo Remedial Action by virtue of paragraph (i) following consultation with Transgrid will not be affected by any EnergyCo Remedial Action.
- (b) If EnergyCo elects to exercise its EnergyCo Remedial Action, Transgrid must in its capacity as a *Transmission Network Service Provider* facilitate and cooperate with EnergyCo for the delivery of all or part the Project by or at the direction of EnergyCo (or its nominee).
- (c) If EnergyCo chooses to take EnergyCo Remedial Action then, among other things:
  - (i) during the period that EnergyCo undertakes EnergyCo Remedial Action (**Remedial Action Period**), EnergyCo must perform, or ensure that its directions allow Transgrid to perform, Transgrid's obligations in a manner which does not cause Transgrid to breach its agreements with Subcontractors and/or Transgrid's regulatory licences and registrations; and
  - (ii) EnergyCo must cease to exercise EnergyCo Remedial Action at the earlier of when the Performance Default has been remedied to EnergyCo's satisfaction (acting reasonably) and EnergyCo's notifying that it no longer wishes to exercise the EnergyCo Remedial Action.
- (d) Subject to the nature of EnergyCo Remedial Action set out under paragraph (c) but otherwise without limiting the generality of EnergyCo's rights, Transgrid must, among other things, for the purposes of facilitating EnergyCo undertaking EnergyCo Remedial Action during the Remedial Action Period:
  - (i) permit EnergyCo to exercise or direct the exercise of all rights under all agreements with Subcontractors;
  - (ii) suspend the Transgrid Activities to the extent reasonably required by EnergyCo; and
  - (iii) facilitate and cooperate with EnergyCo in relation to the interface and connection between the TNA Project and the Transgrid Network.

## 26.6 Obligation to notify of insolvency

If an Insolvency Event occurs with respect to a party, then that party must immediately notify each other party that the event has occurred.

## 27 Damage and liability

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### 27.3 Limitation of liability

(a) To the extent permitted by law, and subject to clauses 27.5 and 27.6, the total liability of Transgrid to EnergyCo under or in connection with this Deed, the RNI Interface Deed and the BCSS Sale and Purchase Deed is limited to:

■ [REDACTED]

■ [REDACTED]

- (b) To the extent permitted by law, and subject to clauses 27.4, 27.5 and 27.6, the total liability of EnergyCo to Transgrid under or in connection with this Deed, the RNI Interface Deed and the BCSS Sale and Purchase Deed is limited to:

■ [REDACTED]

■ [REDACTED]

#### 27.4 Limitation of liability for rectification of BCSS Defects

To the extent permitted by law, the total liability of EnergyCo to Transgrid in respect of EnergyCo's liability under clause 17.3(k) regarding Transgrid's costs to rectify a BCSS Defect is limited to an amount equal to [REDACTED].

#### 27.5 Consequential or Indirect Loss

- (a) Subject to clause 27.6 but otherwise despite any other provision of this Deed, the RNI Interface Deed and the BCSS Sale and Purchase Deed, except to the extent that Loss cannot be lawfully excluded, neither party is liable to the other (whether in contract, tort or otherwise) under or in connection with this Deed, the RNI Interface Deed and the BCSS Sale and Purchase Deed for Consequential or Indirect Loss.

- (b) **Consequential or Indirect Loss** means any:

- (i) loss that does not arise directly or naturally from the relevant breach;
- (ii) loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of business or loss of business opportunity, loss of contract (other than this Deed, the RNI Interface Deed and the BCSS Sale and Purchase Deed), loss of goodwill, loss of goodwill and damage to credit rating, loss of use, loss of production;
- (iii) loss arising from loss of electricity transmission; or
- (iv) failure to realise anticipated savings.

#### 27.6 Liability not excluded or limited

Clauses 27.3 and 27.5 (as relevant as set out in the paragraphs below) do not limit the parties' liability (and such liability is not counted towards the limit of liability under clause 27.3):

■ [REDACTED]

■ [REDACTED]

[illegible]

## 27.8 Statutory immunities

Nothing in this Deed constitutes a waiver by Transgrid of, nor an agreement to limit or exclude any limitation of Transgrid's liability, or immunity of Transgrid from liability, under sections 119 or 120 of the National Electricity Law.

## 27.9 Reinstatement

- (a) Without limiting Transgrid's rights under this Deed in relation to Extension Events and Compensation Events, Transgrid bears the risk of Loss or damage to the TNA Works.
- (b) If any part of the TNA Works, the TNA Assets or the TNA Site is lost, damaged or destroyed (**Relevant Infrastructure**), Transgrid must:
  - (i) unless it is not required to do so under the Network Lease or otherwise agreed by EnergyCo, promptly reinstate or otherwise make good the Loss, or repair the damage so that Transgrid continues to comply with its obligations under this Deed to the greatest extent possible and the repaired or rebuilt Relevant Infrastructure complies with the requirements of this Deed;
  - (ii) keep EnergyCo fully informed of the progress of the reinstatement and repair activities; and
  - (iii) pay for the cost of carrying out the reinstatement or repair work.

## 27.10 Procedure for Third Party Claims

- (a) If EnergyCo intends to claim on the indemnity under clause 27.1 in respect of a Claim against EnergyCo by a third party (**Third Party Claim**), EnergyCo must give notice of the Third Party Claim to Transgrid as soon as reasonably practicable.
- (b) If Transgrid gives written notice to EnergyCo confirming that EnergyCo is indemnified under clause 27.1 in respect of the Third Party Claim, EnergyCo must:
  - (i) in conducting any proceedings or actions in relation to any such Third Party Claim:
    - A. act in good faith;
    - B. liaise with Transgrid in relation to the defence of the Third Party Claim;
    - C. provide Transgrid with reasonable access to a copy of any notice, correspondence or other document relating to the Third Party Claim as soon as practicable; and
    - D. on an ongoing basis, keep Transgrid reasonably informed of all material developments in relation to the Third Party Claim; and
  - (ii) subject to clause 27.10(a), not settle or compromise the Third Party Claim without Transgrid's consent (not to be unreasonably withheld or delayed). Transgrid will be deemed to be acting reasonably if Transgrid refuses to provide its consent as a result of restrictions or obligations under any insurance policy to which such Third Party Claim may be subject.

## 28 Dispute Resolution

### 28.1 Disputes generally

Any dispute, difference or controversy directly or indirectly based upon, arising out of, relating to or in connection with the TNA Project, this Deed (including any questions relating to the existence, validity or termination of this Deed) or either party's conduct before the Execution Date, but excluding a failure by a party to comply with a final and binding decision by an Expert (**Dispute**) must be resolved in accordance with this clause 28.

### 28.2 Operating Committee resolution

- (a) Where a Dispute arises, the Dispute must be notified by the dissatisfied party to the other party by written notice of the issues in Dispute (**Notice of Issue**). The Notice of Issue must:
  - (i) provide factual particulars and the legal basis of the issues in Dispute; and
  - (ii) be issued as soon as is reasonably practicable after the dissatisfied party first became aware of the fact, matter or thing on which the Dispute is based.
- (b) If a Notice of Issue is given under clause 28.2(a), the Dispute must be referred to the Operating Committee.
- (c) Within 10 Business Days after a Notice of Issue is given under this clause 28.2, the Operating Committee shall, in good faith, meet and use reasonable endeavours to resolve the Dispute (in whole or in part) for a period of 10 Business Days.
- (d) Any resolution of a Dispute agreed by the Operating Committee shall be given in writing to both Parties (**Notice of Resolution**).
- (e) A Notice of Resolution:
  - (i) will be final and binding on the parties, except where:
    - A. either:
      - (aa) the quantum of the applicable Dispute is greater than [REDACTED]; or
      - (ab) if the Dispute relates to an Extension Event and the extension of time agreed by the Operating Committee or originally claimed by Transgrid is greater than 10 days; and
    - B. a party gives a Notice of Dissatisfaction to the party within 20 Business Days of the Notice of Resolution, in which case clause 28.2(f) shall apply; and
  - (ii) is to be given effect to by the parties unless and until it is reversed, overturned or otherwise changed under any subsequent expert determination, arbitration or litigation.
- (f) If either party issues a Notice of Dissatisfaction then:
  - (i) within 10 Business Days the parties, acting reasonably, must determine whether the Dispute is suitable for determination by an Expert, in which case clause 28.3 applies;

- (ii) if the parties do not reach agreement under clause 28.2(f)(i) above or agree that the Dispute is not suitable for determination by an Expert, then the party who issued the Notice of Dissatisfaction may refer the Dispute to arbitration in accordance with clause 28.4; and
- (iii) the Notice of Resolution is to be given effect to by the parties unless and until it is reversed, overturned or otherwise changed under any expert determination, arbitration or litigation.

### 28.3 Expert determination

- (a) Any Dispute which is referred to expert determination in accordance with clause 28.2(f) will be conducted in accordance with the Resolution Institute's Expert Determination Rules and the expert will be selected:
  - (i) jointly by the parties; or
  - (ii) failing agreement by the parties on who should be appointed as the expert within 10 Business Days of the date on which the Dispute was referred to expert determination in accordance with clause 28.2(f), such person selected by the Resolution Institute in accordance with such rules or other processes for selecting experts as the Resolution Institute regularly applies,

**(Expert).**
- (b) Both parties must promptly make available to the Expert all such additional information, access to all relevant places and all appropriate facilities as the Expert may require for the purposes of making a determination on the Dispute.
- (c) Transgrid may, with EnergyCo's consent, have a representative of any Subcontractor attend any expert determination proceedings under this clause 28.3 as an observer.
- (d) The Parties agree that, to the extent permitted by Law:
  - (i) the powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) are not conferred on the Expert; and
  - (ii) the Expert has no power to make a binding or non-binding determination or any award in respect of a Dispute by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any Dispute referred to expert determination.
- (e) The parties shall bear the costs of the Expert and the process of expert determination in equal shares.
- (f) The Expert's determination:
  - (i) must be given to the parties in writing;
  - (ii) will become final and binding upon both parties unless either party issues a Notice of Dissatisfaction to the other party within 20 Business Days; and
  - (iii) is to be given effect to by the parties unless and until it is reversed, overturned or otherwise changed under any arbitration or litigation.

- (g) If a Notice of Dissatisfaction is issued, the party who issues the Notice of Dissatisfaction may refer the Dispute to arbitration in accordance with clause 28.4.
- (h) Prior to the commencement of arbitration the parties shall attempt to resolve the Dispute amicably. However, unless both parties agree, arbitration may be commenced on or after the 28<sup>th</sup> day after the relevant Notice of Dissatisfaction was given, even if no attempt at amicable settlement has been made.

## **28.4 Arbitration**

- (a) Where a Notice of Dissatisfaction has been issued, the Dispute will be finally settled by binding arbitration in accordance with this clause 28.4 (unless otherwise agreed by the parties).
- (b) The Dispute:
  - (i) shall be settled under Rules of Arbitration of the Australian Centre for International Commercial Arbitration in force as at the Execution Date;
  - (ii) shall be settled by three arbitrators appointed under the Rules of Arbitration of the Australian Centre for International Commercial Arbitration;
  - (iii) shall be conducted in English;
  - (iv) the legal seat of the arbitration and any hearing required will be Sydney, New South Wales, Australia;
  - (v) all evidence-in-chief will be given in writing unless otherwise ordered by the tribunal, having regard to the nature of the Dispute (including complexity and quantum); and
  - (vi) the disclosure of documents will be governed by the International Bar Association Rules on the Taking of Evidence in International Arbitration in force as at the Execution Date.
- (c) If an award requires a payment of an amount by one party to the other party, this amount shall be immediately due and payable without any notice.

## **28.5 Urgent relief**

Nothing in this clause 28 prevents a party seeking urgent injunctive relief or similar interim relief from a court.

## **28.6 Performance of obligations**

Despite the existence of a dispute, the parties must continue to perform their respective obligations under this Deed except where this Deed has been terminated.

## **28.7 Survive termination**

This clause 28 will survive termination of this Deed.

# **29 Confidential information**

## **29.1 No disclosure**

Each party undertakes that it will not, either during the term of this Deed or at any time thereafter (except to the extent necessary to comply with its obligations under this Deed)



disclose to any person any information of or relating to the other party of which it has become possessed as a result of this Deed or the negotiations preceding this Deed including the terms of this Deed, all information and documentation supplied by Transgrid or EnergyCo and information to which Transgrid or EnergyCo has access to in the performance of this Deed.

## **29.2 No publication**

The parties must not publish alone or in conjunction with any other party or organisation any information, drawing or photograph concerning this Deed except with the other party's written consent and subject to such conditions as the other party may prescribe.

## **29.3 No prohibition**

Nothing in this Deed prohibits disclosure of information:

- (a) which is in the public domain otherwise than as a result of a breach of this clause 29;
- (b) which is received from a third party provided that it was not acquired directly or indirectly by that third party as a result of a breach of this clause 29;
- (c) which is required to be disclosed by law or any government or governmental body, authority or agency having authority over a party;
- (d) for the purposes of providing legal, accounting, engineering or other technical or professional advice;
- (e) to any Associates, but only to the extent that such disclosure is necessary and provided that the receiving party has made the Associate aware of the confidential nature of the matters and information and the Associate has agreed to keep the matters and information confidential; or
- (f) required to protect the safety of personnel or equipment.

# **30 Assignment and other dealings**

## **30.1 Restrictions on Disposals during Delivery Phase**

- (a) Subject to clause 30.3, during the Delivery Phase, Transgrid must not Dispose of its interests under this Deed to any person without the prior written consent of EnergyCo.
- (b) Subject to clause 30.1(c), any consent under clause 30.1(a) being considered or given by EnergyCo will be given in its absolute discretion and may be subject to such conditions as EnergyCo determines, including in the case of a proposed Disposal under clause 30.1(a):
  - (i) Transgrid demonstrating to the satisfaction of EnergyCo that the assignee is financially and technically capable of observing and performing Transgrid's obligations under this Deed;
  - (ii) Transgrid demonstrating that the assignee holds all Approvals necessary to perform the purportedly transferred obligations and liabilities of Transgrid under this Deed; and
  - (iii) the assignee and Transgrid entering into with EnergyCo a binding *deed of covenant* pursuant to which the assignee undertakes to perform the

obligations and liabilities of Transgrid under this Deed which are to be transferred.

- (c) EnergyCo's consent to a Disposal by Transgrid under clause 30.1(a) must not be unreasonably withheld or delayed where the conditions in clause 30.1(b)(i) to 30.1(b)(iii) are met to the satisfaction of EnergyCo (acting reasonably).
- (d) Notwithstanding anything to the contrary in this clause 30.1, Transgrid may Encumber its interests under this Deed (including granting to its financiers (or any trustee or agent appointed for them) a security interest over this Deed) where required by any financier to Transgrid.

### **30.2 Restrictions on Disposals during Operations Phase**

- (a) Subject to clause 30.3, during the Operations Phase, Transgrid must not Dispose of its interests under this Deed to any person without the prior written consent of EnergyCo.
- (b) EnergyCo's consent is not required under clause 30.2(a) where the Disposal or grant of a Security Interest is to a person that receives a Disposal of or Security Interest in respect of Transgrid's interests under the Network Lease as permitted by the Network Lease.
- (c) Notwithstanding anything to the contrary in this clause 30.2, Transgrid may Encumber its interests under this Deed (including granting to its financiers (or any trustee or agent appointed for them) a security interest over this Deed) where required by any financier to Transgrid.

### **30.3 Disposal to a Related Body Corporate**

Transgrid may from time to time without consent from EnergyCo, assign the rights, or novate its rights and obligations under this Deed to a Related Body Corporate if:

- (a) at the time the assignment or novation takes effect, Transgrid assigns, novates or otherwise transfers its rights and obligations under:
  - (i) the REZ Network Connection Agreement;
  - (ii) where the assignment or novation occurs prior to the expiry of the 'Defects Liability Period' (as defined in the RNI Interface Deed), the RNI Interface Deed; and
  - (iii) where the assignment or novation occurs prior to the Transfer Date, the BCSS Sale and Purchase Deed,
 to the same Related Body Corporate; and
- (b) Transgrid notifies EnergyCo in writing as soon as soon as practicable after the assignment or novation.

## **31 Representations and warranties**

### **31.1 EnergyCo representations and warranties**

EnergyCo represents and warrants for the benefit of Transgrid that:

- (a) it is a statutory body representing the State validly constituted under the *Energy and Utilities Administration Act 1987* (NSW);

- (b) it has or will have in full force and effect all authorisations necessary under its constituent legislation to enter into and perform its obligations under this Deed (or will have them in full force and effect at the time the obligation is to be performed);
- (c) this Deed constitutes a valid and legally binding obligation of it in accordance with its terms; and
- (d) the execution, delivery and performance of this Deed does not violate any Applicable Law, or any document or agreement to which it is a party or which is binding on it or its assets.

### **31.2 Transgrid representations and warranties**

Transgrid represents and warrants for the benefit of EnergyCo that:

- (a) it is duly registered and remains in existence;
- (b) the execution, delivery and performance of this Deed does not violate any Applicable Law, or any document or agreement to which it is a party or which is binding on it or any of its assets;
- (c) it has taken all corporate and other action required to enter into this Deed and to authorise the execution and delivery of this Deed and the satisfaction of its obligations under it;
- (d) this Deed constitutes a valid and legally binding obligation of it in accordance with its terms;
- (e) it subsists and is properly constituted;
- (f) unless expressly described as such in this Deed, it is not the trustee of any trust, nor does it hold any property subject to or impressed by any trust; and
- (g) it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise).

### **31.3 Trustee representations and warranties**

The Trustee warrants to EnergyCo that, on the Execution Date:

- (a) the Trust has been duly established;
- (b) it is the sole trustee of the Trust;
- (c) it has been validly appointed as trustee of the Trust and no action has been taken, or to its knowledge has been proposed, to remove it as trustee of the Trust;
- (d) it has power under the trust deed which establishes the Trust to enter into this Deed and comply with its obligations under this Deed;
- (e) it has taken all necessary action to authorise the execution of this Deed and performance of its obligations under this Deed (including any authorisation required under the trust deed which establishes the Trust);
- (f) it has a right to be indemnified out of the Trust assets in respect of obligations incurred by it under this Deed except to the extent:
  - (i) the Trustee has acted beyond power or improperly in relation to the Trust; or



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



### 32.3 Arrangements with third parties

Transgrid must ensure that its arrangements with third parties enable it to licence to EnergyCo (or its nominee) all Transgrid Intellectual Property Rights in accordance with its obligations under clause 32.2.

## 33 Insurance

### 33.1 Insurance requirements for Delivery Phase

- (a) During the Delivery Phase, Transgrid must effect and maintain, or cause to be effected and maintained, the following insurances:
  - (i) from the time that any works commence on a TNA Site:
    - A. public and products liability insurance with a limit of liability of
 

[REDACTED]

 and
    - B. contract works insurance for the reinstatement value of the works;
  - (ii) the public and products liability insurance) will provide cover for the insured parties legal liability to pay compensation for personal injury and/or property damage (including loss of use or consequential loss resulting from personal injury and/or property damage) caused by an occurrence during the period of insurance, where such occurrence arises out of the activities performed during the Delivery Phase. This policy must also:
    - A. include coverage for worker to worker liability;
    - B. be extended to include EnergyCo and the EnergyCo's Representative as an additional insured for its vicarious liability arising out of the activities of Transgrid and its employees, agents, contractors, consultants and representatives;
    - C. include waiver of subrogation in favour of EnergyCo and EnergyCo's Representative, cross liability, non-imputation, severability and non-vitiation clauses; and
    - D. include coverage for bushfire liability.
  - (iii) workers' compensation insurance covering liability to employees under the law of their place of employment and any other place where such employees may be required to perform work in connection with this Deed;
  - (iv) motor vehicle insurance covering legal liability for third party property damage, arising from the party's motor vehicles utilised in the exercise of its rights and performance of its obligations under this Deed for an

overall minimum amount of [REDACTED];

- (v) motor vehicle compulsory third party insurances covering legal liability arising from the party's motor vehicles utilised in the exercise of its rights and performance of its obligations under this Deed as required by Applicable Laws;
  - (vi) professional indemnity insurance covering Transgrid for its civil liability arising from the performance of Transgrid's professional services in connection with the Transgrid Activities performed during the Delivery Phase with cover of [REDACTED];
  - (vii) marine transit insurance for the maximum value of any one conveyance;
  - (viii) plant and equipment insurance for the market value of respective plant and equipment; and
  - (ix) any additional insurance required by Applicable Law.
- (b) The insurances required to be effected or caused to be effected by Transgrid are required to be incepted from and maintained for the entirety of the Delivery Phase, other than in respect of:
- (i) contract works insurance, to be incepted prior to commencement of the Transgrid Activities until expiry of the Delivery Phase; and
  - (ii) professional indemnity insurance to be incepted prior to the Execution Date and maintained until the date that is 7 years after the expiry of the Delivery Phase. This policy must have a retroactive date no later than [REDACTED].
- (c) Transgrid must punctually pay all premiums and other amounts payable in respect of the insurances effected by it.

### **33.2 Insurance requirements for Operations Phase**

During the Operations Phase, Transgrid must effect and maintain, or cause to be effected and maintained, insurance in relation to the TNA Assets in accordance with the Network Lease and any Applicable Laws.

### **33.3 Evidence of insurance**

In respect of the insurances required to be effected and maintained, or caused to be effected and maintained, by Transgrid under this clause 33, Transgrid must give EnergyCo (upon request), a certificate of currency satisfactory to EnergyCo (acting reasonably) to confirm that the insurances which Transgrid must effect and maintain, or cause to be effected and maintained pursuant to this clause 33 have been effected and maintained in accordance with the requirements of this clause 33.

### **33.4 Deductibles and excesses**

Transgrid must pay or bear all amounts by way of deductibles and excesses which apply to a claim made under any insurances effected by it in accordance with this clause 33.

**33.5 Transgrid’s obligations not limited**

The effecting of insurances does not limit the liabilities or obligations of Transgrid under this Deed. Transgrid bears the risk of the insurances being inadequate to enable Transgrid to fulfil its obligations under this Deed.

**34 Notices**

**34.1 Form and delivery**

Notices and other communications in connection with this Deed must be in writing. They must be sent to the address or email address referred to in clause 34.4. If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

**34.2 When taken to be received**

Communications are taken to be received:

- (a) if sent by post, 6 Business Days after posting (or 10 days after posting if sent from one country to another); and
  - (b) if sent by email:
    - (i) when the sender receives an automated message confirming delivery; or
    - (ii) 4 hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message within that 4 hour period that the delivery failed,
- whichever happens first.

**34.3 Receipt outside business hours**

Despite anything else in this clause 34 if communications are received or taken to be received under clause 34.2 after 5.00pm on a Business Day or on a non-Business Day, then they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in clause 34.4 as the address of the recipient and the time of receipt is the time in that place.

**34.4 Addresses and emails**

The addressee, address, email address and contact for each party to which notices must be sent are as specified below:

**Transgrid**

Address: [redacted]  
[redacted]  
  
Email: [redacted]  
  
Attention: [redacted]

**EnergyCo**

Address: [redacted]



Email:

[REDACTED]

Attention:

[REDACTED]

## 35 GST

- (a) Unless the context otherwise requires, words and phrases in this clause that have a specific meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) will have the same meaning in this clause 35.
- (b) If a supplier or recipient who is a party to this Deed is a member of a GST group, references to GST which the party must pay and to input tax credits to which the party is entitled include GST which the representative member of the relevant GST group must pay and input tax credits to which the representative member is entitled.
- (c) Unless otherwise stated, all amounts expressed to be payable under or in connection with this Deed are exclusive of any GST.
- (d) A recipient of a taxable supply under or in connection with this Deed must pay to the supplier, in addition to the consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply (**GST Amount**). The recipient must make that payment to the supplier as and when the consideration or part of it is provided, except that the recipient need not pay unless the recipient has received a tax invoice for that taxable supply.
- (e) If an adjustment event occurs in relation to a supply made under or in connection with this Deed, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties, subject to the supplier issuing an adjustment note in accordance with the GST Legislation.
- (f) Where a supplier incurs a cost or expense for which it may be reimbursed by, indemnified against, claim against or set-off against another party under this Deed, the amount to be paid or credited is the cost or expense (reduced by the input tax credit that the supplier is entitled to claim in respect of that cost or expense) plus any GST Amount payable under this clause 35.
- (g) If a party has a Claim under or in connection with this Deed whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable on account of GST (whether that amount is separate or included as part of a larger amount).
- (h) This clause 35 will not merge upon completion and will continue to apply after expiration or termination of this Deed.

## 36 Entire agreement

This Deed constitutes the entire agreement between the parties and sets out a full statement of the contractual rights and liabilities of the parties in relation to the TNA Works and TNA Project and no negotiations between them nor any document agreed or signed by them prior to the Execution Date in relation to the TNA Works or TNA Project is of any effect.

## **37 Other matters**

### **37.1 Waiver**

Any of a party's rights under this Deed may only be waived by that party in writing signed by a duly authorised representative of that party.

### **37.2 Variations**

This Deed may not be varied except in writing signed by a duly authorised representative of each of the parties.

### **37.3 Exercise of powers**

A party may exercise a right, remedy or power in any way it considers appropriate.

### **37.4 Time of exercise of powers**

If a party does not exercise a right, remedy or power at any time, this does not mean that it cannot exercise it later.

### **37.5 Rights at law**

The rights, remedies and powers of the parties under this Deed are in addition to any rights, remedies and powers provided by Law.

### **37.6 Counterparts**

This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

## **38 Governing law**

### **38.1 Governing law**

This Deed is governed by and must be construed according to the law applying in New South Wales.

### **38.2 Submission to jurisdiction**

The parties agree to submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Deed.

**EXECUTED** as a deed

## Schedule 1 Commencement Conditions

### 1 TNA Upgrade Project

#### 1.1 TNA Separable Portion 1: Bayswater to Liddell Upgrade Works

1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the Regulator under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the Regulator's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> [REDACTED]
2.	(Payment Deed) Entry into the Payment Deed by the Scheme Financial Vehicle.
3.	(RNI Financial Close) The RNI Project reaches financial close.

#### 1.2 TNA Separable Portion 2: Mount Piper to Wallerawang Upgrade Works

1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the Regulator under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the Regulator's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> [REDACTED].
2.	(Payment Deed) Entry into the Payment Deed by the Scheme Financial Vehicle.

3.	(RNI Financial Close) The RNI Project reaches financial close.

### 1.3 TNA Separable Portion 3: Transposition Works

1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the Regulator under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the Regulator's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> [REDACTED].
2.	(Payment Deed) Entry into the Payment Deed by the Scheme Financial Vehicle.
3.	(RNI Financial Close) The RNI Project reaches financial close.

## 2 TNA Connection Project

### 2.1 TNA Separable Portion 4: Cut in to BCSS

1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the AER under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the AER's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> [REDACTED].

2.	<b>(Payment Deed)</b> Entry into the Payment Deed by the Scheme Financial Vehicle.
3.	<b>(Licensed TNA Sites)</b> EnergyCo providing Transgrid with access to the Licensed TNA Sites.
4.	<b>(RNI Financial Close)</b> The RNI Project reaches financial close.

## 2.2 TNA Separable Portion 5A: Commissioning of BCSS Stage 1

1.	<b>(Revenue Determination)</b> Receipt of a non-contestable revenue determination for the TNA Project from the AER under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the AER's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> [REDACTED]
2.	<b>(Payment Deed)</b> Entry into the Payment Deed by the Scheme Financial Vehicle.
3.	<b>(Licensed TNA Sites)</b> EnergyCo providing Transgrid with access to the Licensed TNA Sites.
4.	<b>(Completion of purchase of Barigan Creek Switching Station)</b> BCSS Sale Completion occurring under the BCSS Sale and Purchase Deed.
5.	<b>(RNI Financial Close)</b> The RNI Project reaches financial close.

### 2.3 TNA Separable Portion 5B: Commissioning of BCSS Stage 2

1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the AER under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the AER's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> [REDACTED] [REDACTED].	
2.	(Payment Deed) Entry into the Payment Deed by the Scheme Financial Vehicle.	
3.	(Licensed TNA Sites) EnergyCo providing Transgrid with access to the Licensed TNA Sites.	
4.	(Completion of purchase of Barigan Creek Switching Station) BCSS Sale Completion occurring under the BCSS Sale and Purchase Deed.	
5.	(RNI Financial Close) The RNI Project reaches financial close.	

### 2.4 TNA Separable Portion 5C: Merotherie Lines Connection

1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the AER under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the AER's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> [REDACTED] [REDACTED].	
2.	(Payment Deed) Entry into the Payment Deed by the Scheme Financial Vehicle.	
3.	(Licensed TNA Sites) EnergyCo providing Transgrid with access to the Licensed TNA Sites.	

4.	(Completion of purchase of Barigan Creek Switching Station) BCSS Sale Completion occurring under the BCSS Sale and Purchase Deed.
5.	(RNI Financial Close) The RNI Project reaches financial close.

## 2.5 TNA Separable Portion 5D: Commissioning of BCSS Stage 3

1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the AER under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the AER's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i> . [REDACTED]
2.	(Payment Deed) Entry into the Payment Deed by the Scheme Financial Vehicle.
3.	(Licensed TNA Sites) EnergyCo providing Transgrid with access to the Licensed TNA Sites.
4.	(Completion of purchase of Barigan Creek Switching Station) BCSS Sale Completion occurring under the BCSS Sale and Purchase Deed.
5.	(RNI Financial Close) The RNI Project reaches financial close.

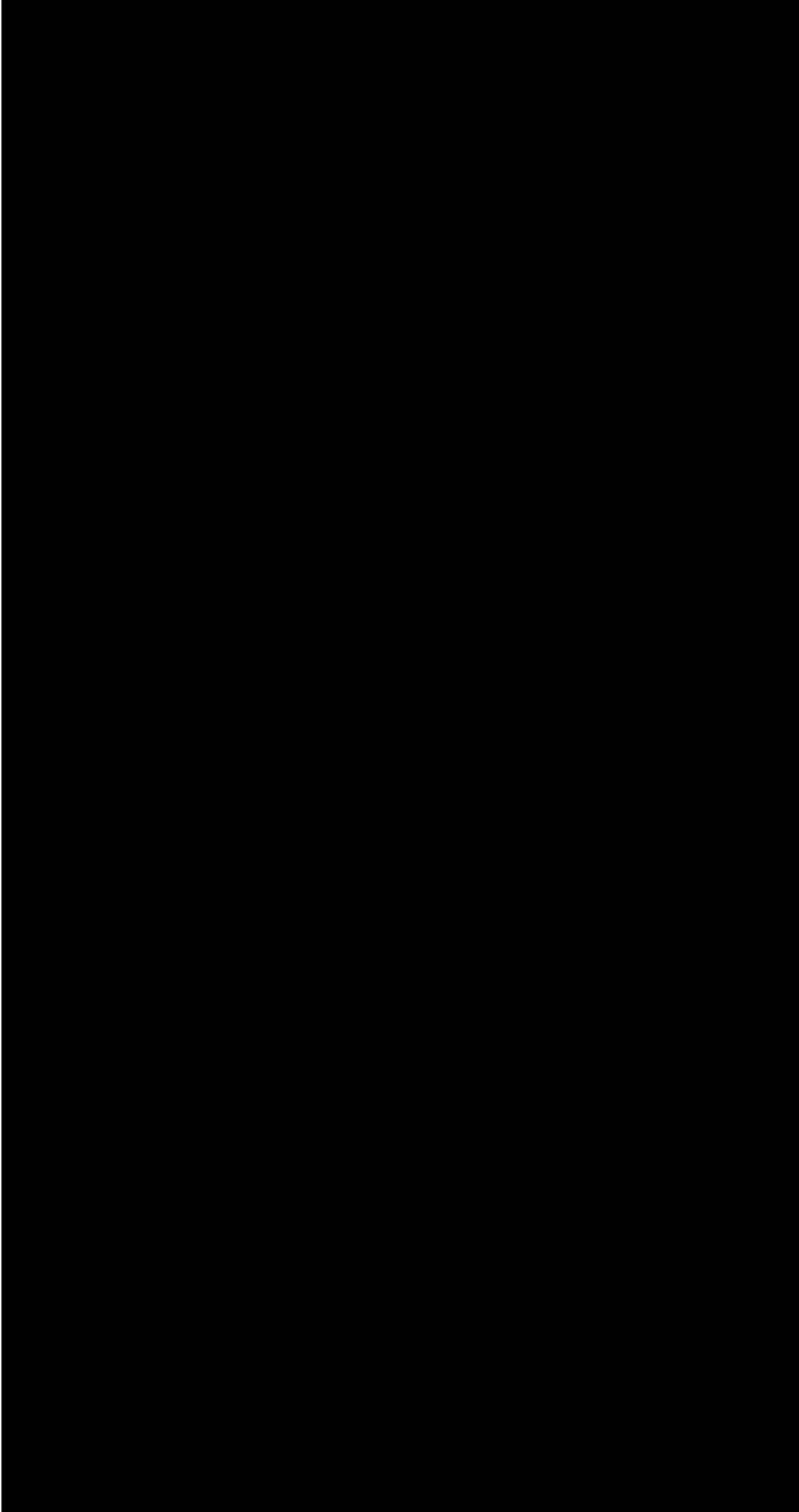
## 2.6 TNA Separable Portion 6: Facilitation of TL79 Over-crossing

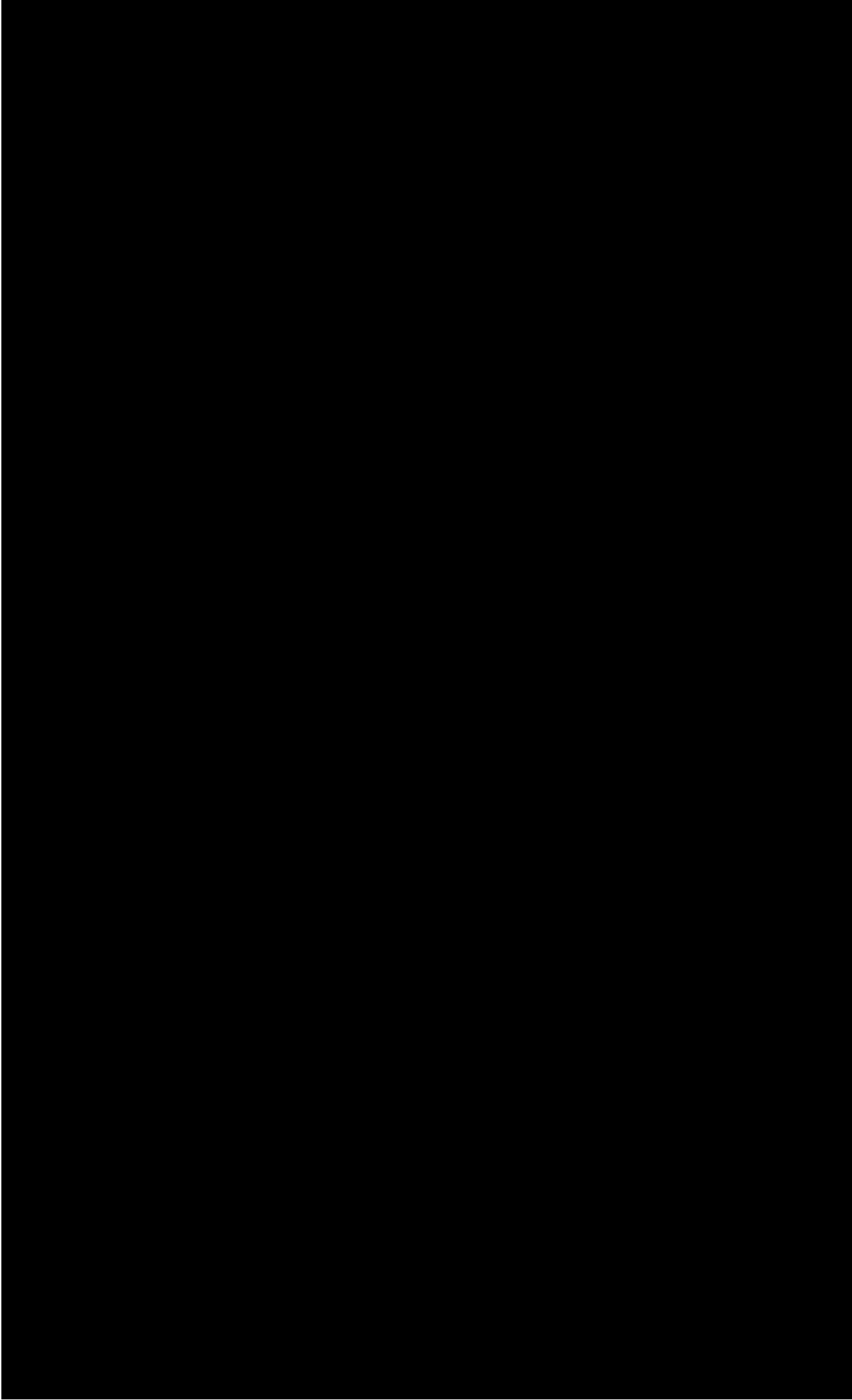
1.	(Revenue Determination) Receipt of a non-contestable revenue determination for the TNA Project from the AER under section 38 of the EII Act in accordance with Part 5 of the EII Act, EII Regulations and the AER's <i>Transmission Efficiency Test and Revenue Determination Guideline for NSW Non-contestable Network Infrastructure Projects</i>	
2.	(Payment Deed) Entry into the Payment Deed by the Scheme Financial Vehicle.	
3.	(RNI Financial Close) The RNI Project reaches financial close.	

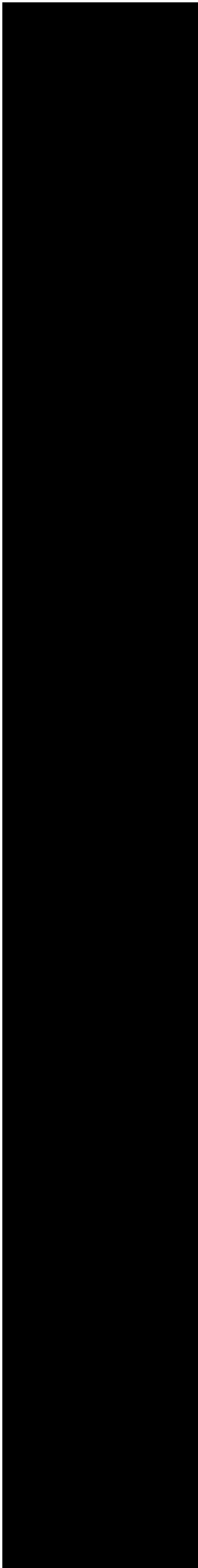


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**Schedule 2      Delivery Plan**







Schedule 3Form of Corrective Action Plan

Corrective Action Plan:Notice Form 12.1

**Purpose:** To provide a corrective action plan for the relevant TNA Separable Portion to set out Transgrid's proposal to mitigate the effects of delay.

To:From:

(EnergyCo Representative Name)(Transgrid Representative Name)

Project:Date:

(Project Full Name)(Date: DD/MM/YYYY)

Click or tap to enter a date.

Notice: Corrective Action Plan

1. Identify the Extension Event:

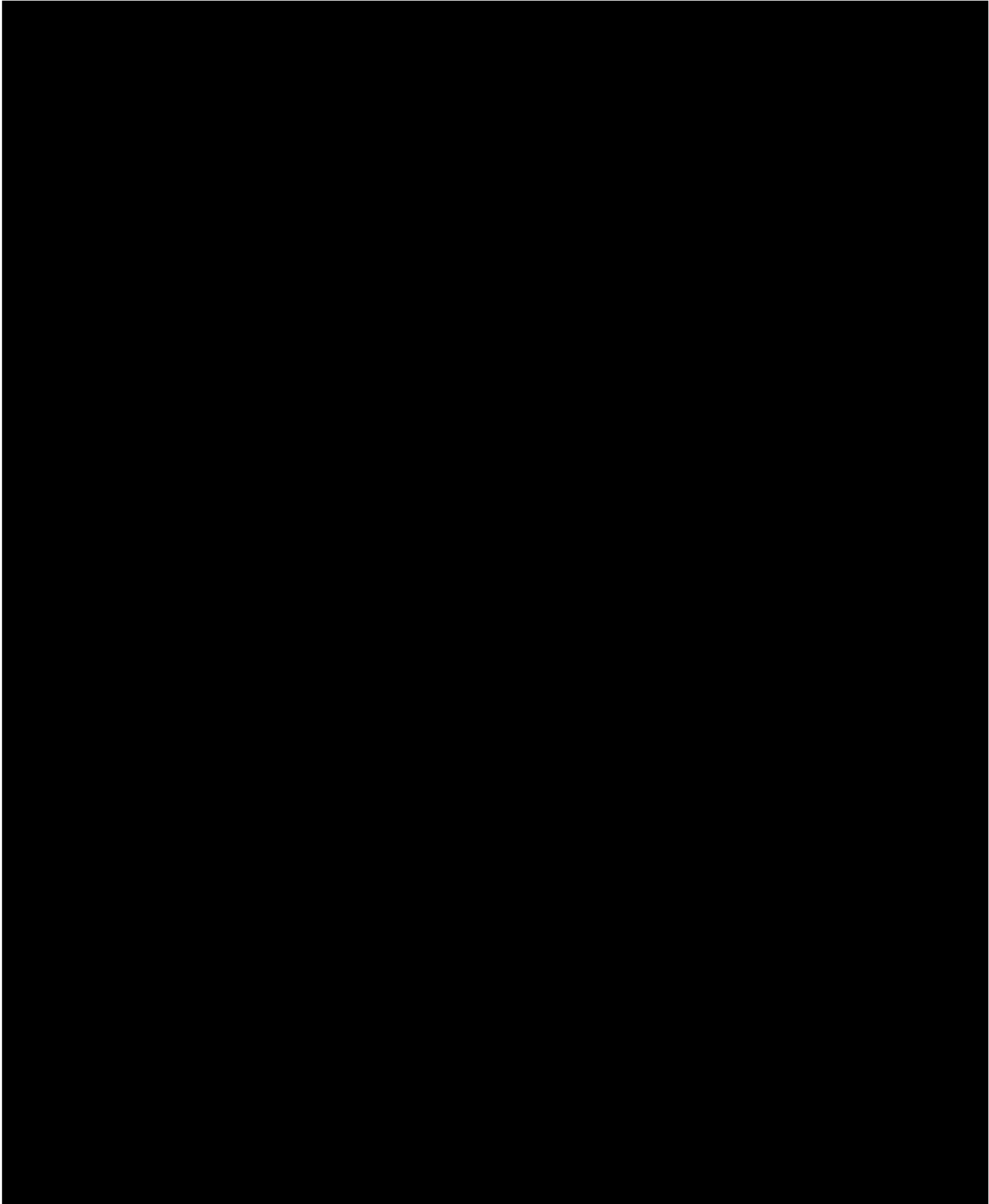
2. Description of the delay:

3. Description of the actions that Transgrid proposes to take to mitigate the effects of the delay:

Any Additional Comments: [optional]

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## Schedule 4





## Schedule 5 Technical Requirements

### 1 TNA Separable Portions

Name of TNA Separable Portion	Description of TNA Separable Portion
<b>TNA Upgrade Project</b>	
<b>TNA Separable Portion 1:</b> Bayswater to Liddell Upgrade Works	<p><i>Establish an additional 330kV transmission line between Bayswater Substation (BAY) and Liddell Substation (LD1), involving line modification works to utilise an existing 330kV transmission line and asset replacements at substations.</i></p> <p><b>Transmission Line Works</b></p> <ul style="list-style-type: none"> <li>Establishment of 330kV Transmission line foundations for new lattice towers and poles</li> <li>The relocation of TL33/34 from the Southern bay to the Eastern bay, incl. Removal of redundant timber poles and existing tower structures of ex- Line 73/74 in the vicinity of Bayswater 500/330kV substation; Construction of three new lattice towers; Stringing of spans including OPGW</li> <li>The Loop-in-loop-out (LILO) of TL81 to the Southern bay (to create new TL8R Bayswater-Liddell), incl. removal of existing steel tower structure; construction of a new lattice tower and two 3 pole tension structures; Stringing of spans including OPGW.             <ul style="list-style-type: none"> <li>All 330kV augmentation stringing works will utilise Twin ACSR/GZ Olive 508mm<sup>2</sup> Conductor, 120 deg design temperature.</li> </ul> </li> <li>All temporary construction works will be managed in line with WHS Regulation requirements</li> <li>Secure necessary property interests for construction, operation and maintenance.</li> <li>Planning approvals to construct and operate will be obtained via a Summary of Environmental Report or Review of Environmental Factors</li> </ul> <p><b>Substation works</b></p> <ul style="list-style-type: none"> <li>Demolition of two redundant bays comprising of landing structures and footings</li> <li>Construction of two new switchbays at Bayswater including pole landing structures in redundant eastern bays to enable re-routing of TL33/34. The new bays will be design and constructed to achieve the following parameters: Voltage – 330kV Continuous Rating - &gt;3150A</li> </ul> <p>Summary of HV Equipment to be Commissioned: Surge Arresters Line Traps Disconnectors / Earth Switches Circuit Breakers Capacitive Voltage Transformers Current Transformers</p> <ul style="list-style-type: none"> <li>Minor HV plant and equipment upgrades in 330kV bays which will be augmented to facilitate connection of TL81/8R. This includes the removal of Line Traps and the installation of new Surge Arrestors</li> </ul>

	<ul style="list-style-type: none"> <li>Secondary system works, incl. new protection, control and communications equipment (including cabling and panels) at Bayswater.</li> <li>Remote end works at Liddell and Newcastle limited to protection setting changes and nomenclature changes</li> <li>HV Plant and Secondary Systems will be commissioned in accordance Good Electrical Industry Practice</li> <li>All temporary construction works will be managed in line with WHS Regulation requirements</li> <li>Planning approvals to construct and operate will be obtained via a Summary of Environmental Report or Review of Environmental Factors</li> </ul>
<b>TNA Separable Portion 2:</b> Mount Piper to Wallerawang Upgrade Works	<p><i>Establish a new 330kV transmission line between Transgrid's existing Mt. Piper 330kV substation (MTP) and existing Wallerawang 330kV substation (WW1) and augment substations to accommodate additional lines.</i></p> <p><b>Transmission Line Works</b></p> <ul style="list-style-type: none"> <li>Installation of new structure foundations</li> <li>Establish new 330kV transmission Line between Mt. Piper – Wallerawang to be named 7G.</li> <li>Demolition of 132kV Line 94E section to make way for new double circuit 330kV structures strung with twin olive conductor. Line 94E to be strung to 330kV structures however will operate at 132kV.</li> <li>Establishment of new double circuit structures between Cox River and existing Lines 70/71. Stringing of spans and re-arrangement of Lines 70/71 and new 7G to minimise under-crossings. <ul style="list-style-type: none"> <li>All 330kV augmentation stringing works will utilise Twin ACSR/GZ Olive 508mm<sup>2</sup> Conductor 120 deg design temperature.</li> </ul> </li> <li>All temporary construction works will be managed in line with WHS Regulation requirements</li> <li>Secure necessary property interests for construction, operation and maintenance.</li> <li>Planning approvals to construct and operate will be obtained via an Environmental Impact Statement approved by DPHI</li> </ul> <p><b>Substation Works</b></p> <ul style="list-style-type: none"> <li>Footing construction, support structures modifications and gantry works as required</li> <li>Installation of new 330kV line feeder bay 7G at Mt Piper including strung bus and interplant bus upgrades. The new bays will be design and constructed to achieve the following parameters: <ul style="list-style-type: none"> <li>Voltage – 330kV</li> <li>Continuous Rating - &gt;3150A</li> <li>Summary of HV Equipment to be Commissioned: <ul style="list-style-type: none"> <li>Surge Arresters</li> <li>Disconnecter / Earth Switches</li> <li>Circuit Breaker</li> <li>Capacitive Voltage Transformers</li> <li>Current Transformers</li> </ul> </li> </ul> </li> <li>Upgrade and modification of HV Plant and equipment in Wallerawang feeder bay 7G. The new bays will be design and constructed to achieve the following parameters: <ul style="list-style-type: none"> <li>Voltage – 330kV</li> <li>Continuous Rating - &gt;3150A</li> <li>Summary of HV Equipment to be Commissioned: <ul style="list-style-type: none"> <li>Surge Arresters</li> <li>Disconnecter / Earth Switches</li> <li>Capacitive Voltage Transformers</li> <li>Current Transformers</li> </ul> </li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>• New secondary system panels for protection and control will be required for the new feeder bays at Mt Piper and Wallerawang</li> <li>• Installation of new communication panels and equipment at Mt Piper and Wallerawang.</li> <li>• HV Plant and Secondary Systems will be commissioned in accordance Good Electrical Industry Practice</li> <li>• All temporary construction works will be managed in line with WHS Regulation requirements</li> <li>• Planning approvals relating to Wallerawang and Mt Piper Substation works to construct and operate will be obtained via a Summary of Environmental Report or Review of Environmental Factors</li> </ul>
<b>TNA Separable Portion 3: Transposition Works</b>	<p><i>Perform line transpositions for four lines: Mount Piper to Barigan Creek and Barigan Creek to Bayswater to enable transfer of generation from CWO REZ to the NSW Transmission Network.</i></p> <ul style="list-style-type: none"> <li>• Design and construction of Transmission line foundations and new steel poles <ul style="list-style-type: none"> <li>• The four transmission lines (5A4/5A3, 5P1/5P2) will be transposed at intervals corresponding to one-third and two-thirds of their lengths. At one end of these lines, the phases must be restored to align with the original phase sequence required at the substations.</li> <li>• The proposed technical solution is expected to be installed adjacent to an existing tension tower and will facilitate the transposition of the lines.</li> </ul> </li> <li>• Phase rolls are assumed to be required at two substation locations. Tentatively understood to be Transgrid's Mount Piper and Barigan Creek</li> <li>• All temporary construction works will be managed in line with WHS Regulation requirements</li> <li>• Planning approvals to construct and operate are proposed to be obtained via a Review of Environmental Factors</li> </ul>
<b>TNA Connection Project</b>	
<b>TNA Separable Portion 4: Cut in to BCSS</b>	<p><i>Modify the existing 500kv line 5A3 (Mt. Piper – Wollar) and 5A5 (Mt. Piper – Bayswater) to loop-in-loop out of BCSS.</i></p> <p>Transmission Line Works:</p> <ul style="list-style-type: none"> <li>• Establishment of foundations for new transmission towers</li> <li>• Establishment of 5 new tension towers</li> <li>• Stringing of spans, excluding supply and installation of the landing spans to the Barigan Creek gantry structure. <ul style="list-style-type: none"> <li>◦ 500kV augmentation stringing works will utilise Quad ACSR/GZ Orange Conductor, 120 deg design temperature.</li> </ul> </li> <li>• All temporary construction works will be managed in line with WHS Regulation requirements</li> </ul> <p>Substation works</p> <ul style="list-style-type: none"> <li>• The augmentation of 500kV lines 5A3 and 5A5 which will be cut -into BCSS and create new 500kV lines 5P1 and 5P2 require remote end protection schemes to be upgraded.</li> <li>• Commencement of remote end secondary system works at Wollar, Mt Piper and Bayswater Substations. Works common across each remote end location will include: <ul style="list-style-type: none"> <li>◦ Installation of new Control and Protection Cubicles (CPC) including cabling</li> <li>◦ Protection upgrades</li> <li>◦ SCADA Database modifications</li> </ul> </li> <li>• Wollar Substation will also include: <ul style="list-style-type: none"> <li>◦ installation of a Quality of Supply scheme</li> <li>◦ the installation of new Multiplexer panel</li> <li>◦ Communications trenching to facilitate the new fibres to BCSS</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>All temporary construction works will be managed in line with WHS Regulation requirements</li> <li>Planning approvals for the works will be obtained by the Infrastructure Planner (EnergyCo)</li> </ul>
<b>TNA Separable Portion 5A:</b> Commissioning of BCSS Stage 1	<p><i>Provision of loop-in-loop-out landing spans to the Barigan Creek Switching Station gantry structures for line 5A5. Connection of line 5A5 (Mt. Piper – Wollar) to Barigan Creek Switching Station. Perform asset acceptance, testing and commissioning to energise relevant parts of Barigan Creek Switching Station (see below) into the NSW Transmission Network in accordance with the RNI Interface Deed and this Deed.</i></p> <ul style="list-style-type: none"> <li>Supply and installation of the and 5A5 (Mt. Piper – Wollar) to loop-in-loop out landing spans to the Barigan Creek Switching Station gantry structure.</li> <li>Cut-in, commissioning and energisation of line 5A5 (Mt. Piper – Wollar) to a single busbar (Bus A) at Barigan Creek Switching Station, and energisation of one Merotherie line bay (up to the line disconnecter) at Barigan Creek Switching Station from the same busbar (Bus A) through a coupler bay.</li> </ul>
<b>TNA Separable Portion 5B:</b> Commissioning of BCSS Stage 2	<p><i>Commissioning and energisation of remaining Merotherie line bays in accordance with the RNI Interface Deed and this Deed.</i></p> <ul style="list-style-type: none"> <li>Commissioning and energisation of the remaining 3 Merotherie line bays (up to the line disconnectors) at Barigan Creek Switching Station to Bus B, and energisation of a second coupler bay on the same diameter as the line 5A5 (Mt. Piper – Wollar) cut-in.</li> <li>Reasonable endeavours to undertake baseline harmonic voltage measurements for a minimum of 7 days based on the single Merotherie line bay energised in Commissioning of BCSS Stage 1, subject to coordination with the RNI Network Operator.</li> </ul>
<b>TNA Separable Portion 5C:</b> <b>Merotherie Lines Connection</b>	<p><i>Commissioning and energisation of Merotherie lines 5M1, 5M2, 5M3 and 5M4 in accordance with the RNI Interface Deed and this Deed.</i></p> <ul style="list-style-type: none"> <li>Connection of the droppers of each Merotherie line to the line bay referred to in Commissioning of BCSS Stage 2 and energisation of the four Merotherie lines sequentially</li> <li>Facilitation and support of the commissioning of the Merotherie line referred to above and relevant associated equipment at Merotherie Substation by the RNI Network Operator in accordance with the RNI Interface Deed.</li> </ul> <p>Merotherie line 5M4 will be commissioned using reasonable endeavours as soon as practical following the completion of Commissioning of BCSS Stage 1.</p>
<b>TNA Separable Portion 5D:</b> Commissioning of BCSS Stage 3	<p><i>Connection of line 5A3 (Mt. Piper – Bayswater) to Barigan Creek Switching Station. Perform asset acceptance, testing and commissioning to energise all remaining parts of Barigan Creek Switching Station into the NSW Transmission Network in accordance with the RNI Interface Deed and this Deed.</i></p> <ul style="list-style-type: none"> <li>Supply and installation of the 5A3 (Mt. Piper – Bayswater) to loop-in-loop out landing spans to the Barigan Creek Switching Station gantry structure.</li> <li>Cut-in, commissioning and energisation of line 5A3 (Mt. Piper – Bayswater) to Bus A at Barigan Creek Switching Station.</li> <li>Commissioning of remaining coupler bays and all remaining parts of Barigan Creek Switching Station.</li> <li>Reasonable endeavours to undertake baseline harmonic voltage measurements for a minimum of 7 days following line 5A3 (Mt. Piper – Bayswater) cut-in and energisation, subject to coordination with the RNI Network Operator.</li> </ul>

<b>TNA Separable Portion 6:</b> Facilitation of TL79 Over-crossing	<i>Facilitate management of Transgrid’s TL79 assets including facilitating outages during construction by the RNI Network Operator of the new transmission line that crosses over TL79.</i> Outage facilitation includes: <ul style="list-style-type: none"><li>• Submitting outage request in line with ACEREZ outage plan</li><li>• Complete necessary outage coordination and operations on Transgrid’s network to enable TL79 overcrossing works</li><li>• Supervision of works where ACEREZ works interface with TL79</li></ul>
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Schedule 6

Site Access Schedule

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# 1 Introduction

## 1.1 Purpose

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This Schedule identifies:

- a) the TNA Site to which EnergyCo will give Transgrid access;
- b) the Licensed TNA Site to which EnergyCo will give Transgrid access;
- c) the Licensed TNA Site Access Date for each part of the TNA Site; and
- d) the access principles that Transgrid must comply with when accessing relevant land.

## 2 Construction Site

### 2.1 Construction Site and land categories

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The **TNA Site** is the land set out on the “Site Access Schedule Plans” included as Attachment A to this Schedule 6.

Despite the other provisions of this Deed, EnergyCo is not responsible for granting or procuring access to such parts of the TNA Site that include existing public roads. Transgrid is responsible for obtaining access to such parts of the TNA Site under the *Roads Act 1993* (NSW), including section 138 and section 5 of Schedule 2 of the *Roads Act 1993* (NSW).

The parts of the TNA Site have been classified into categories as follows:

- Licensed TNA Site
- Access Easement

**Licensed TNA Site** is the section of land within the TNA Site that will accommodate the TNA Works associated with the TNA Connection Project. This is to include TNA Assets including transmission line towers, transmission lines and transmission easements to connect the existing Transgrid 500kV transmission line into the new Barigan Creek Switching Station.

After the Date of Practical Completion of each TNA Separable Portion forming part of the TNA Connection Project, the final position of each TNA Asset forming part of those TNA Separable Portions will be surveyed to account for the actual constructed location of the transmission towers and transmission lines, and a transmission line easement put in place in accordance with clause 8.2(i) of this Deed

The “permanent easement acquisition area” is shown in the ‘Site Access Schedule Plans’ in Attachment A of this Schedule 6. The area shown is indicative only and is subject to the final survey. The easement but must be located within the Licence TNA Site.

The potential “construction impact area” is shown in the ‘Site Access Schedule’ in Attachment A of this Schedule 6. The area shown is indicative only and is subject to change based on the construction methodologies to be provided or provided by Transgrid. The TNA Works and Transgrid Activities associated with the TNA Connection Project and any resulting impacts from those activities must be conducted in accordance with the Planning Approval for the TNA Connection Project, the Connection EIS and clause 7 of this Deed.

The Licensed TNA Site must include any temporary construction activity required to conduct the TNA Connection Project.

Following enactment of the transmission line easement in accordance with clause 8.2(i) of this Deed, the access for Transgrid to the area that is the subject of the transmission line easement shall be as per the terms of the transmission line easement.

**Access Easement** is land that Transgrid may use for access to the Licensed TNA Site. This Access Easement is to be utilised by the RNI Network Operator to access their construction site for the construction and operations of the RNI Project. Any access by other persons must be permitted in accordance with clause 8.2(f) of this Deed.

## 2.2 Site Access

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The relevant Licensed TNA Site Access Date for each part of the TNA Site is set out in Table 3- 1, along with the relevant Licensed TNA Site Access Date.



## 3 TNA Site Access Principles

### 3.1 General Principles

When accessing the TNA Site, Transgrid and any of its Associates must at all times comply with by the following principles:

- A. Liaise with the RNI Network Operator in good faith at all times.
- B. Prepare and issue to the RNI Network Operator a property access plan (**Property Access Plan**) at least two (2) months before the commencement of access to the Licensed TNA Site. As a minimum, the Property Access Plan must:
  - a. provide an overview of the construction programme which will set out the likely date on which construction will commence, along with the anticipated duration of the works within the Licensed TNA Site area;
  - b. describe the construction works being undertaken in the Licensed TNA Site area;
  - c. detail the equipment to be used for the construction works in the Licensed TNA Site area;
  - d. illustrate the location of the construction works and detail how access will be achieved through the period of construction; and
  - e. indicate that the proposed works are in line with the Planning Approvals for the TNA Connections Project and the Connection EIS in accordance with clause 7 of this Deed.
- C. Provide notification to the RNI Network Operator at least fourteen (14) days prior to accessing the relevant Licensed TNA Site area.
- D. Advise the RNI Network Operator and carry out a pre-construction meeting a minimum of fourteen (14) days prior to commencement of construction activity on the Licensed TNA Site.
- E. In the event that this scope or programme for work are to be amended, the RNI Network Operator must be advised in writing a minimum of fourteen (14) days prior to the change, unless a shorter timeframe is agreed in writing with the RNI Network Operator and EnergyCo.
- F. Maintain regular contact with the RNI Network Operator throughout construction to maintain awareness of ongoing property operations and any other proposed access.
- G. Immediately notify the RNI Network Operator of any damage caused.

- H. Undertake all relevant investigations and protection works to prevent damage to all existing services, and infrastructure, including property irrigation lines and infrastructure not shown in any Before You Dig Australia (BYDA) searches or drawings. In the event of damage, ensure the service is reinstated within 24 hours.
- I. Minimise clearing of existing vegetation and impacts to existing flora and in all cases comply with the Planning Approval for the TNA Connection Project.
- J. Reduce impact to livestock and other fauna on the property.
- K. Do not clear vegetation beyond what is permitted under the Planning Approval for the TNA Connection Project..
- L. Ensure all cleared vegetation and spoil is disposed of in accordance with Planning Approval for the TNA Connection Project. Any disposal of cleared vegetation and/or spoil on a property must be in accordance with the Planning Approval for the TNA Connection Project.
- M. Ensure all construction works access to property is consistent with the Planning Approval for the TNA Connection Project.
- N. Where necessary or as agreed with the RNI Network Operator, provide temporary fencing as required.
- O. Transgrid must comply with its own bushfire management plans and the RNI Network Operator's bushfire management plan which has been developed in consultation with the NSW Rural Fire Service and to comply with fire hazard warnings and directives the NSW Rural Fire Service.
- P. Water or other resources and utilities may not be utilised by Transgrid or its Associates without the express written permission of the RNI Network Operator.
- Q. Construction related activities, including access, must be confined to that part of the property subject to the Transgrid Activities.
- R. Make vehicles available for inspection by the RNI Network Operator if requested.
- S. Company logos for vehicles entering the site must be visible.

## 4 Not Used



the 1990s, the number of people in the world who are under 15 years of age has increased by 1.2 billion (United Nations 1999). The United Nations predicts that by the year 2025, the number of people under 15 years of age will increase to 2.5 billion (United Nations 1999). The United Nations also predicts that by the year 2025, the number of people aged 65 years and over will increase to 1.1 billion (United Nations 1999).

There is a growing awareness of the need to address the health and social care needs of the young and the old. The World Health Organization (WHO) has identified the need to address the health and social care needs of the young and the old as a priority (WHO 1999). The WHO has identified the need to address the health and social care needs of the young and the old as a priority (WHO 1999). The WHO has identified the need to address the health and social care needs of the young and the old as a priority (WHO 1999).

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**Schedule 7      Not Used**

**Schedule 8      Early Development Activities**

Early Development Activities		Deliverables
<i>PDD Milestones 1 – 3 (Paid)</i>		
<b>Actual Costs to December 2024</b>	a) Site visits for the purpose of design, community, environmental, heritage and property surveys	Lithgow Council presentation slides
	b) MTP-VWW1 stakeholder briefings for Environmental Impact Statement (EIS)	Mt Piper to Wallerawang Transmission Line Upgrade Project Community Newsletter
	c) Meeting with the AER held to discuss the various adjustment mechanisms to be included in Transgrid's revenue proposal	Project cost estimates
	d) Program workshops with ACERZ and EnergyCo	Project Deed draft Delivery Plan and draft Program
	e) Commercial meetings with ACERZ and EnergyCo to finalise agreements	Early activities cost estimates
	f) Technical workshops with ACERZ and EnergyCo to agree requirements for the interface, and contribute to documents such as the IFS and Connection Agreement Data Book	Voltage unbalance study
	g) Preparation of early works and total project cost estimates for EnergyCo	North Projects Transposition Report



Early Development Activities		Deliverables
	h) Voltage unbalance study and discussions with EnergyCo Technical Advisory team on next steps.	
January 2025	a) Review of iterative deeds provided by both EnergyCo and ACERREZ b) RFT evaluation completed with preferred delivery partner(s) c) Community Environmental Group briefing	Lithgow Environmental Group presentation slides Downstream RFT Evaluation Report
February 2025	a) Downstream contract negotiations finalised b) SMEC Completion of Geotechnical Works for Mt Piper to Wallerawang d) Commencement of NSW Government agency briefings as part of MTP-WW1 EIS technical study development	Geotechnical Report for Mt Piper to Wallerawang Downstream Contract Negotiation Agenda
March 2025	a) Transposition site assessments conducted b) Transposition development works commenced c) Separable Portion 1 Notice to Proceed issued to Delivery Partner	Downstream Contract Award Correspondence Transposition Preliminary Drawing Register

Early Development Activities		Deliverables
<b>April 2025</b>	<p>a) Transgrid submitted comments on the Barigan Creek Design Packages:</p> <ul style="list-style-type: none"> <li>- Barigan Creek Detailed Concept Design - Primary and Structural package; and</li> <li>- Barigan Creek Interface Memorandum - Primary and Structural interface</li> </ul> <p>b) TL79 Overcrossing Risk Assessment submitted to EnergyCo</p> <p>c) Completion of tower designs for safety in design workshops</p>	<p>Mt Piper to Wallerawang Noise and Vibration Report</p> <p>Engineering Design Drawing Register – Tower Designs</p>
<b>May 2025</b>	<p>a) Project Change requests for the Transpositions, BCSS Commissioning and Merotherie Connection completed.</p> <p>b) Draft Indigenous heritage test excavations results submitted to EnergyCo</p> <p>c) Draft Regulatory Proposal prepared.</p>	<p>Notice to Proceed for Separable Portion 1</p> <p>Draft Regulatory Submission</p>
<b>June 2025</b>	<p>a) Draft Aquatic ecology report submitted to EnergyCo</p> <p>b) Initial Hydrology culvert crossing assessment completed</p>	<p>Draft Indigenous heritage excavations results</p> <p>Structural Design Review Meeting (25%)</p>

Early Development Activities		Deliverables
	c) Initial traffic intersection performance modelling completed	
July 2025	<p>a) Transpositions final scope and program</p> <p>b) Transgrid commenced the placement of orders for Long Lead Equipment</p> <ul style="list-style-type: none"> <li>- Primary Equipment – SP3, SP4, SP5, SP6</li> </ul> <p>c) Community and Stakeholder Outcomes Report completed to support EIS</p>	<p>Transposition draft program</p> <p>Community and Stakeholder Outcomes Report</p>
August 2025	<p>b) Tower detailing commenced. This relates to:</p> <ul style="list-style-type: none"> <li>- New 330kV transmission line Bayswater to Liddell</li> <li>- New 330kV transmission line Mount Piper to Wallerawang</li> <li>- Barigan Creek / New Wollar 500kV switchyard cut-in</li> </ul> <p>c) Transmission Line Risk Workshop held with Delivery Partner</p> <p>d) Substation Risk Workshop held with Delivery Partner</p>	<p>Engineering Design Drawing Register – Tower Detailing</p> <p>Risk Workshop Agenda</p>

Early Development Activities		Deliverables
<b>September 2025</b>	<ul style="list-style-type: none"> <li>a) Commencement of first draft of environmental impact statement for Mount Piper to Wallerawang and distributed for Transgrid internal review</li> <li>b) HV Primary 45% designs completed for Mt Piper 330kV substation works</li> <li>c) TL Foundations 45% design completed for Mt Piper – Wallerawang 330kV</li> </ul>	<p>Mt Piper to Wallerawang Environmental Impact Statement</p> <p>Engineering Design Drawing Register – HV Primary and TL foundations design</p>
<b>October 2025</b>	<ul style="list-style-type: none"> <li>a) Public exhibition on display for MTP-WW1 Environmental Impact Statement</li> <li>b) Transgrid received draft Stakeholders Communication Matrix from Delivery Partner</li> <li>c) Transgrid received draft Health and Safety Plan from Delivery Partner</li> </ul>	<p>Draft Healthy and Safety Plan</p> <p>Draft Stakeholders Communication Matrix Plan</p>
<b>November 2025</b>	<ul style="list-style-type: none"> <li>a) Transgrid received draft Bush Fire Management Plan from Delivery Partner</li> <li>b) Transgrid received draft Fatigue Management Plan from Delivery Partner</li> <li>c) Wollar Transmission Line Pre-prototype tower design commenced</li> </ul>	<p>Non-Credible Contingency Study Report</p> <p>Draft Bush Fire Management Plan</p>

Early Development Activities		Deliverables
<b>December 2025</b>	<ul style="list-style-type: none"> <li>a) Foundation Designs for Wollar 500kV 85% completed</li> <li>b) Structural 45% Design Risk Workshop</li> <li>c) MTP-VWV1 stakeholder briefings for Environmental Impact Statement (EIS)</li> </ul>	Draft Fatigue Management Plan  Structural Design Workshop Agenda
<b>January 2026</b>	<ul style="list-style-type: none"> <li>a) Transgrid free issued equipment ordered for the Delivery Partner</li> <li>b) MTP-VWV1 85% structural design submitted to Transgrid for review.</li> <li>c) Supplementary Environmental Report Bayswater to Liddell approved</li> </ul>	Engineering Design Drawing Register - Structural design  Supplementary Environmental Report Bayswater to Liddell
<b>February 2026</b>	<ul style="list-style-type: none"> <li>a) Transgrid received the Notice of CWO REZ Non Contestable Regulatory Determination from AER</li> <li>b) MTP-VWV1 SS Primary 85% design package submitted to Transgrid</li> <li>c) MTP-VWV1 final Commonwealth Government approval of Environmental Impact Statement</li> </ul>	Mt Piper to Wallerawang Environmental Impact Statement Approval  Engineering Design Drawing Register – Primary design

Early Development Activities		Deliverables
<b>March 2026</b>	<ul style="list-style-type: none"> <li>a) Transgrid received Draft Resource Schedule from Delivery Partner</li> <li>b) Bayswater SS Primary 85% design package submitted to Transgrid</li> <li>c) IFC Civil Design completed</li> </ul>	<p>Delivery Partner Resource Schedule</p> <p>Engineering Design Drawing Register – Bayswater Primary Design</p>
<b>April 2026</b>	<ul style="list-style-type: none"> <li>a) IFC foundations for Mt Piper to Wallerawang 330kV approved by Transgrid</li> <li>b) MTP-VW1 Gantry structural assessment submitted to Transgrid for review</li> <li>c) EIS determination received</li> </ul>	<p>Engineering Design Drawing Register – IFC Foundations for Mt Piper to Wallerawang</p> <p>Environmental Impact Statement determination</p>
<b>May 2026</b>	<ul style="list-style-type: none"> <li>a) Transgrid received Draft Separable Portion 6 Management Plans from Delivery Partner</li> <li>b) Transgrid received Draft Separable Portion 6 CEMP from Delivery Partner</li> <li>c) Transgrid commenced the placement of orders for Long Lead Equipment                             <ul style="list-style-type: none"> <li>- Secondary Equipment – SP2, SP3, SP4, SP5, SP6</li> </ul> </li> <li>a) Delivery Partner commenced procurement of equipment</li> </ul>	<p>Mt Piper to Wallerawang Environmental Impact Statement Commonwealth Determination</p> <p>Draft CEMP SP6</p>
<b>June 2026</b>	<ul style="list-style-type: none"> <li>a) Delivery Partner commenced procurement of equipment</li> </ul>	<p>Engineering design Drawing Register – IFC Design</p>

Early Development Activities		Deliverables
	b) Transgrid completed IFC design of non-contestable works.	Downstream Separable Portion 4 Management Plan from Delivery Partner
	c) Transgrid received Draft Separable Portion 4 Management Plans from Delivery Partner	
Contingency		
Payment Cap		

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## **Schedule 9      Transgrid Supporting Documentation**

### **TRANSGRID SUPPORTING DOCUMENTATION**

#### **Internal labour (including management) details**

Details to be supplied for internal labour costs claimed by Transgrid for Early Development Activities:

- A statement from Transgrid that the internal labour costs provided are for the TNA Project
- Spreadsheet of internal labour costs by cost category by month detailing:
  - Employee name
  - Month and year work performed
  - Work group (eg Engineering, Community & Stakeholder etc)
  - Employment grade
  - Hours worked
  - Average hourly rate for employment grade
  - Labour cost adjustment to reconcile total cost calculated by using average hourly rates to total actual cost
- Explanation when an employee's rate has changed from previous invoice
- Timesheets for employees charging more than 200 hours in a month
- EnergyCo will request sample of timesheets of its choice (5 per month)

#### **Labour expenses eg travel costs:**

- Spreadsheet of internal labour expenses incurred by cost category by month
- Transgrid transaction listing for one cost category per month
- EnergyCo will request up to 3 samples invoices or receipts of its choice from the transaction listing for the cost category

#### **Third Party Invoices**

Details to be provided by Transgrid with its invoices:

- Spreadsheet of third-party invoices detailing:
  - Costs incurred by supplier name by cost category and month
  - An explanation of the activities carried out by each supplier
  - Confirmation of the date and amount of payment made (5BD after Transgrid provides invoice to EnergyCo)
- All invoices and remittance advices from 5 suppliers for each month that have been selected by EnergyCo for the month (2 of the 5 invoices and remittance advises will be from the largest for that month).

### **DATES**

Within 12 Business Days after month end – Transgrid to submit invoice and supporting documentation as above

Additional information requested by EnergyCo to be supplied by Transgrid within 2 Business Days of request

EnergyCo to inform Transgrid of approved amount within 10 Business Days of receiving initial invoice

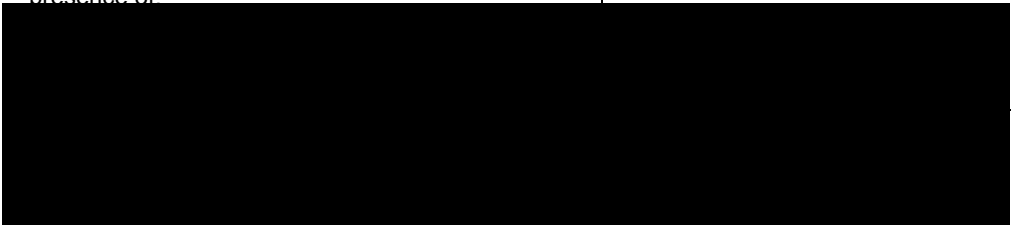
EnergyCo to pay approved amount within 20 Business Days of receiving initial invoice



Signing page

DATED: 31 January 2025

Signed, sealed and delivered by Energy Corporation of New South Wales ABN 13 495 767 706 by its authorised delegate in the presence of:



Name of witness in full

Name of authorised delegate in full

(\*By signing this deed, the witness confirms that this document, if witnessed over audio visual link, was witnessed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000* (NSW), and the witness affixed their electronic signature to a counterpart of this document.)

Signed, sealed and delivered for NSW Electricity Networks Operations Pty Limited ACN 609 169 959 as trustee for NSW Electricity Networks Operations Trust ABN 70 250 995 390 by its attorney pursuant to power of attorney dated 29 November 2022, who has received no notice of revocation of the power of attorney as at the date of execution, in the presence of:



(\*By signing this document, the witness confirms that this document, if witnessed over audio visual link, was witnessed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000* (NSW), and the witness affixed their electronic signature to a counterpart of this document.)