

Submission to the AER

**Transgrid 2026-31 Revenue proposal enabling CWO REZ
AER Preliminary Position paper**

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Introduction

This submission is in response to the AER's October Preliminary Position Paper (PPP) on Transgrid's Enabling Central-West Orana (CWO) REZ network infrastructure project (non-contestable) revenue proposal 2026-31 (Revenue Proposal). This submission builds on the feedback we gave in our initial submission to the AER dated 26 August 2025 and the comments we made at the AER's Public Forum on 10 November 2025. These are our personal views and we do not speak for other Transgrid Advisory Council (TAC) members.

In summary we strongly support the approach taken by the AER in its PPP and the focus areas identified by the AER. We also welcome Transgrid's comments at the Public forum in response to the AER's feedback. We have not seen a draft of Transgrid's submission in response to the AER's PPP and we are hopeful that it will reflect the constructive approach Transgrid took at the Public forum. In this submission we first offer some observations on context; engagement; and transparency and accountability; and then we focus our substantive comments on the 4 major issues identified by the AER in the PPP.

1. Context

At the outset we would like to stress the important contextual observations from our initial submission:

- we are going through a transformational energy transition which is seeing transmission builds everywhere; foundation changes in the distribution networks; and changes in the way Governments provide supports for communities, households and businesses;
- within this context the NSW Roadmap processes are very new and quite bespoke;
- NSW decided the NER framework would not deliver Roadmap projects quickly enough so they created a whole new framework to prioritise speed of delivery of the Roadmap; and
- the costs in the next 5-10 years up and down the supply chain need to be triaged so consumers do not pay twice and collectively transmission planners need to maximise asset utilisation. This is absolutely critical before the wholesale benefits flow from the new generation.

We are all working in an environment of continuous improvement:

- the AER already revised its non-contestable Roadmap guidelines (the AER Guideline) and made substantive changes to its processes between its 15 December 2023 Waratah Super Battery determination and the lodgement by Transgrid of this Revenue proposal on 31 July 2025;
- the NSW Government passed important amendments to the Electricity Infrastructure Investment Act (2020) (EII Act) this year and very recently it introduced the Energy Legislation Amendment Bill 2025 making further changes to the collection of the Infrastructure Planner Fees (IP Fees) and the Maximum Capital Cost (MCC); and

- after the development of the Better Resets Handbook (BRH) and the uplift and focus in consumer engagement in recent years and with so many new players actively involved in the energy transition, customer advocates are less certain about our role and influence in Roadmap projects. We welcome the Government's support in principle for the NSW Transmission Planning Review's recommendations for EnergyCo to improve its customer engagement, transparency and governance.

We are observing Transgrid testing the new Roadmap Framework, the AER Guideline and the AER's approach to financeability in this Revenue Proposal and we recognise the AER diligently responding to protect customers' interests in the PPP.

The primary issue and concern raised in the submissions to Ausgrid's HCC REZ and Transgrid's Enabling CWO REZ revenue proposals is the allocation of risk and how much risk should be picked up by EnergyCo as the planner; by Transgrid (assuming it has sufficient time to quantify and mitigate those risks under the Roadmap's accelerated timetable); and what risks are allocated by EnergyCo and networks to customers during commercial negotiations, without customers having any input into these decisions.

We acknowledge some risks will be borne by customers as a result of governments acting on our behalf resulting for example from the policy focus on decarbonisation; the speed being imposed by EnergyCo; or the high impact and low probability of some events. We welcome the AER's diligent review of the revenue and Adjustment Events in the PPP. However, we believe there needs to be greater certainty and transparency about which risks reside with which party, including those being allocated to consumers and by whom.

In our initial submission we asked the AER to be bold on customers' behalf and they have delivered on our request in the PPP.

2. Observations on Transgrid's engagement

We agree with the AER and CCP assessment that Transgrid's engagement with the TAC fell short of the expectations of the BRH. In our initial submission we made several recommendations and additional observations to Transgrid of ways that it might develop a more fit for purpose approach to engagement to identify customer preferences and needs for BAU resets, major ISP projects and for NSW Roadmap projects. The CCP also made several constructive recommendations based on its views of best practice approaches by other networks to engagement and the AER's expectations under the BRH.

On p.18 the AER lists 4 specific actions Transgrid can take to improve customer engagement for future projects. We encourage Transgrid to accept the AER's advice by implementing these actions. We welcome the comments made by Transgrid at the Public Forum that they are listening to the feedback on engagement and that Transgrid has lessons to learn for the development of future revenue proposals.

We are already seeing some green shoots in Transgrid's engagement with TAC for the upcoming 2029-33 revenue reset (RP4):

- for example several Board members are attending engagement planning workshops;
- recently Transgrid called for expressions of interest to join a new Consumer Working Group, which is intended to be a committee of consumer representatives for engagement in RP4, responding to action 1 on p.18 of the PPP; and
- we acknowledge that Transgrid has reimbursed our time for preparing this submission.

Transgrid's offer to engage differently with customer advocates for RP4 is welcome and as we said in our initial submission and at the Public Forum we will continue to work constructively with Transgrid. However, we would like to see this new Transgrid approach apply also to investment proposals for major projects whether under the ISP or Roadmap.

We remain very concerned that EnergyCo does not participate in engagement on the development by network operators of Roadmap revenue proposals. We believe that all parties need to contribute – EnergyCo, the AER, Transgrid and customer advocates. At the moment the AER is doing a lot of heavy lifting on customers' behalf after the event as the role for customer advocates in Roadmap processes is really unclear and that needs to change.

Ideally our interactions with Transgrid on the upcoming synchronous condenser priority Network Infrastructure and Hunter Transmission Projects revenue proposals will be a noticeable step up and will be based on the constructive feedback from the AER in this PPP and assurances given by Transgrid at the Public Forum. We urge greater participation from EnergyCo in these future projects. This will require greater transparency from the NSW Government about its decisions to go faster and how this is impacting customers, but we believe this has become essential for ongoing social acceptance for the Roadmap and is consistent with the Government's acceptance in principle of the engagement, transparency and governance recommendations in the final Transmission Planning report.

We look forward to working with Transgrid in good faith as it evolves and improves its approach to engaging with customer advocates and customers in all its regulatory processes.

3. Observations on transparency and accountability

An important feature of Roadmap projects is the expectation of the Government for network operators to maximise speed of delivery. We continue to call for increasing transparency from EnergyCo around the decisions reached by it and networks to allocate risk to customers. We believe that by all parties working together, with more transparent dialogue, greater trust and social acceptance for the NSW Roadmap can be built.

Our initial submission to the AER reinforced customer advocate concerns about the lack of transparency and accountability in the Roadmap process. In the spirit of continuous improvement and learning we urged the AER to apply its approaches on confidentiality in the HCC REZ PPP to this CWO enabling project. We are pleased to see Transgrid and EnergyCo agreeing to drop confidentiality claims related to the

information set out on p.6 of the PPP. The publication of the do no harm requirement in the CEFC concessional financing is a very important development in the ongoing push for greater transparency.

We welcome the commitment made by the AER in the PPP at p.20 and again at the Public Forum to review its Confidentiality Guideline ensuring that in future Roadmap revenue proposals there will be very, very limited, targeted and justifiable confidentiality claims and that we will continue to see greater transparency of information and documentation going forward.

4. Observations on the 4 major focus areas

At the Public Forum Transgrid confirmed that its focus remains finding “*the right balance between capital providers and customers*”. We believe this focus underpinned several of the claims in the Revenue Proposal for additional revenue and risk allocation to consumers via Adjustment Events. Our read of the PPP is the AER being vigilant to this whilst at the same time being constructive in its response to Transgrid. This balance between shareholders and customers is a regular feature of discussions at TAC and we look forward to this dialogue maturing as greater trust is built between Transgrid and TAC members.

We welcome Transgrid’s offer at the Public forum not to press its claims for the timing of IP Fee payments, modified CESS and the financeability application for this Revenue proposal. We note Transgrid’s comments expressly reserved its position to press these claims in future revenue proposals for other larger projects. For example, at the Public Forum Transgrid repeated its view that the CESS is not appropriate for large projects. We were unclear from the Public Forum whether Transgrid are continuing to claim pre-period capex for this project. Transgrid clearly stated it intended to engage with the AER to ensure it had appropriate documentation to support claims for pre-period capex. We comment on this below.

Financeability

The discussion around Transgrid’s financeability request has been interesting as Transgrid openly stated it made the application to test the AER’s new financeability guideline as a precursor to future major ISP and Roadmap projects. Our position was that this was inappropriate, especially given the limited and rushed engagement with TAC on only one scenario and the AER’s compressed timetable to review the Revenue Proposal. The AER’s PPP confirms at p. 26 that Transgrid’s request was inappropriate given Transgrid’s knowledge of the confidential CEFC funding agreement and the plain words of the do no harm clause:

“Therefore, a deterioration in Transgrid’s credit bands from the CWO Enabling Project expenditure only occurs when concessional financing is added to the Transgrid’s base case.

This behaviour appears to be consistent with the result that the CEFC is seeking to prevent through the ‘do no harm’ requirement. As such, we consider that Transgrid’s financeability request is inconsistent with the requirements of its concessional financing agreement that it entered with the

CEFC, and that the financeability test does not demonstrate that there is a financeability issue in the 2026–31 period for the CWO Enabling Project.”

In response the AER has been very constructive in the PPP and despite the AER finding no financeability issue or basis for Transgrid's financeability request, the AER has provided a lot of detail to inform Transgrid and other networks about how the AER will apply the financeability guideline in the future, its expectations for better stakeholder engagement on this issue and how the AER will apply CEFC concessional finance in its consideration of financeability issues. Transgrid may not be happy with the approach shared by the AER. However, we were pleased that Transgrid committed at the Public Forum to discuss any differences with the AER through ongoing dialogue. In future projects we encourage Transgrid to lodge financeability requests in its Revenue Proposals only when a genuine financeability issue arises.

Pre-period capex

The Roadmap framework includes the reimbursement by networks of EnergyCo's administrative and technical costs via the payment of IP Fees. IP Fees also include the repayment to Transgrid of early works costs for the project approved by EnergyCo. The Revenue proposal included \$152m for IP Fees which we understand were all repayments to Transgrid for early works. The AER is unable to review the prudence, efficiency and reasonableness of IP Fees and this is left to EnergyCo internal governance processes. The AER notes at pp 30 and 32 that the \$8m in pre-period capex sought by Transgrid was not approved by EnergyCo for recovery as IP Fees. It appears that Transgrid has not justified recovery of these costs to EnergyCo, ARENA or the AER either under NER revenue or as part of this Revenue Proposal. We agree with the AER's conclusion that the evidentiary bar for recovery by a network for additional pre-period costs in Roadmap projects, in circumstances where those costs were not approved by EnergyCo, should be high.

CESS

The CESS is an important mechanism to encourage networks to deliver projects efficiently. Similarly unmodified CESS is a critical protection for consumers against inefficient network forecasting and cost overruns in major projects. The CWO Enabling project is small in revenue terms when compared to most other ISP and Roadmap projects. For this reason it is harder to understand why Transgrid included the modified CESS that the AER agreed to in the Humelink project in the Revenue Proposal. Transgrid was very clear at the public Forum that *“as a concept CESS is inappropriate for large projects”* so it may be that this approach will be included by Transgrid in all ISP and Roadmap revenue proposals as a position of principle.

We would encourage Transgrid to explore a more nuanced approach with the TAC about its concerns in relation to CESS and major projects. As the AER notes on p.34 many TAC members gave strong feedback to Transgrid that we believed that Transgrid had not provided a reason for departing from the usual CESS for this project. We welcome the AER's discussion in the PPP and we agree with the 4 points on p.34. We believe that there should be a very high bar to modifying the incentives on networks under the CESS.

In any event the availability of post determination adjustment events under the Roadmap framework reduces forecasting risk for networks. The AER's approach to deferred capex mechanisms is an additional constructive way to respond to Transgrid's concerns about uncertainty. In our view the additional time provided by deferred capex mechanisms supports the application of unmodified CESS, provided the mechanism trigger can be satisfied at the earliest possible opportunity.

Adjustment events

In the spirit of continuous improvement and learning we urged the AER to apply the new deferred capex mechanism introduced in the HCC REZ PPP to this CWO enabling project where appropriate and we commend the AER for doing this in relation to the Unavoidable design and construct contract variations event. Timing for the trigger is very important. We agree with the Ausgrid HCC REZ reg Panel submission to the AER in its response to the PPP in HCC REZ where the Panel stated:

"Timing of the trigger for any delayed capex forecast mechanism will be key as the CESS (modified or unmodified) will only apply once any additional revenue is added to the determination. The Panel supports triggers being linked to a milestone rather than a date. However, the AER needs to consider the right balance between delay and forecasting risk. We believe that the balance of timing and certainty should favour consumers, which would favour an earlier trigger. If there is residual risk for Ausgrid at the time of the reopening, then CESS will create incentive to mitigate that risk."

The Panel believes that all triggers for delayed capex forecast mechanisms should include the following conditions:

- Ausgrid to present evidence of engagement with consumers on how it has satisfied the trigger. In Ausgrid's case this could be met by engagement with its Customer Consultative Committee;*
- mitigations Ausgrid has taken to reduce the forecast costs; and*
- independent verification that the forecast revenue is at least AACE class 2 accuracy following the AER's recent Marinus decision."*

We also asked the AER to go further and to reject adjustment events if they were already covered by forecast capex or risk costs; could be negotiated as part of commercial discussions with EnergyCo or efficiently mitigated by Transgrid. This is very important as networks do not have the same incentives to minimise costs that are passed through under Adjustment events as they do for allowed revenue which is subject to the discipline and opportunities in CESS.

We are really pleased the AER highlighted 3 adjustment events (BCSS repex and opex annual true ups; Compulsory acquisition easement costs and Legal challenges arising from the compulsory acquisition process) that it believes are partially within Transgrid's control; already adequately covered by the capex forecasts and where the AER believes any differences between the forecast and actuals are immaterial. These decisions should inform EnergyCo and Transgrid to ensure these issues are managed as part of commercial negotiations in the upcoming syn cons and HTP projects, rather than allocating similar risks to consumers through post determination adjustment events.

We note the AER is considering 2 different approaches to managing the issue of Biodiversity offset cost variances. The appropriate regulatory approach for

biodiversity offset costs has been an issue between the AER and Transgrid in both the Humelink decision and again in the CWO Revenue proposal. We understand the AER's preference to include a forecast for these costs in the allowed revenue, rather than treating them as an adjustment event or a cost pass through under the NER. Although if the costs are included in the forecast and then excluded from the operation of CESS we are wondering what the advantage is for consumers. Transgrid continues to highlight the uncertainty around biodiversity offset costs and the risks for consumers of Transgrid obtaining a CESS reward if the forecast is included in the allowed revenue subject to even a modified CESS. We note that Transgrid has included \$15m in their Revenue Proposal despite this uncertainty so we are concerned about the justification for this estimate.

This is a difficult issue for customer advocates to engage on with Transgrid at a detailed level. We believe that it would be beneficial for the AER to elaborate its concerns about these costs in the final determination over and above the detail in pp 40-41 of the PPP. In particular we are interested to better understand the uncertainty surrounding these costs and any suggestions the AER has for networks to narrow the uncertainty. This would be useful for future projects.

Finally, we are wondering if there is scope for the AER to divide this cost category further and treat the more certain biodiversity offset costs in a forecast or under a brief delayed forecast mechanism and then subject to CESS earlier and for truly uncertain biodiversity costs to be treated either as an adjustment event or brought into the forecast later under a different later trigger. Either way we then believe that the unmodified CESS should apply rather than the CESS exclusion in Humelink, for the reasons discussed above. It would be helpful if the AER addressed the different approach it took in Humelink to exclude the biodiversity offset costs from the CESS and if that decision was influenced by the size of the project or if the forecasting risk for those costs was greater in Humelink.

5. Next steps

As we noted above we have not seen Transgrid's draft submission in response to the AER's PPP. We are hopeful that it will be constructive and will build on the recent positive commitments from some of Transgrid's directors and leadership team to TAC to improve its engagement with customer advocates and customers. We are also hopeful from Transgrid's comments at the Public Forum that Transgrid will not be pressing several claims in its submission to the AER particularly on CESS and financeability and will instead be engaging in constructive dialogue with the AER on these matters.

We urge the AER to clearly indicate in its final determination that it intends to apply a high level of scrutiny to future claims by Transgrid under all of the non-automatic Adjustment Events. Under NER cost pass through processes these similar unavoidable events are subject to a 1% Maximum Allowed Revenue (MAR) threshold for cost pass through claims. This puts maximum incentive on networks to find ways to manage and mitigate these costs as they are incurred, as the costs may be below the MAR threshold, requiring the network to absorb them. By contrast, under Roadmap processes there is no minimum. Accordingly, we welcome the AER

introducing the concept of immateriality into its consideration of 3 of the Adjustment Events as a welcome first step.

We strongly encourage the AER to work with EnergyCo on ways to decrease consumer exposure to these truly unavoidable events under the Roadmap framework. Currently there is no cap, no incentive scheme, no threshold and 'reasonable' costs are allowed. Hopefully more of these risks can be resolved by different contractual, insurance, or Government backstop mechanisms during the Project Deed negotiations. We also believe that some unavoidable events could have an expiry date so that consumers take the risk only for a reasonable period and then any medium-longer term risk passes to networks.

We look forward to further amendments to the AER's non-contestable Guideline and confidentiality Guideline following the conclusion of the HCC REZ and CWO REZ enabling revenue determination processes. In addition to more explicit expectations on consumer engagement and transparency of adjustment events, the revised non-contestable Guideline could require networks to identify in their revenue proposals those adjustment events that are partially within their control and a timeline and mechanism for when delayed forecasts will be possible. This would put the AER in a better position in the limited time it has to prepare its PPP to develop more precise delay or cap mechanisms.

Finally, we thank the AER staff for their engagement with us. We welcome the important progress the AER is making in the PPP on behalf of NSW customers. We repeat our request for the AER to remain ambitious in the final determination on behalf of NSW electricity customers. The AER could signal a future intention to pursue more transparency, ex post reviews, caps, thresholds, delays and expiry dates on more adjustment events and refusal of adjustment events that EnergyCo and network operators should be able to manage upfront during the tender/negotiation phase rather than by shifting risks to consumers.

Our overriding purpose in our 2 submissions in this enabling CWO REZ project has been to encourage greater dialogue and change amongst all parties. It is critical that:

- Transgrid builds on its stated new aspiration to create meaningful opportunities to seek out the preferences of small customers and for these preferences and needs to be reflected in its investment decisions whether under RP4, ISP or Roadmap projects;
- the NSW Government, and EnergyCo in particular, improves its transparency about the infrastructure, planning and administrative costs of the energy transition and the timing of those costs. We are concerned that the proposed changes to the collection of IP Fees and the power for EnergyCo to ask the Consumer Trustee to increase the MCC may lead to less transparency;
- the AER continues to build transparency, cost forecasting rigour and clearer expectations for customer engagement for networks into all major transmission projects whether under NER or Roadmap frameworks; and
- all parties are open and frank about the costs of and nature of the risks being transferred to customers in transmission builds, how those risks will be monitored, and what accountability is expected from project proponents.