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Monday, 17 November 2025

Scott Haig
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

Dear Scott,

Central West Orana Renewable Energy Zone Enabling Works – Submission on Preliminary Position Paper

Transgrid welcomes the opportunity to comment on the Australian Energy Regulator's (AER) Preliminary Position Paper (Paper) addressing our revenue proposal for the Enabling Central-West Orana Renewable Energy Zone Network Infrastructure Project (non-contestable) (Enabling CWO RNIP or the Project).

Our submission in Appendix 1 addresses the key focus areas identified in the AER's Paper:

- Pre-period costs – We have accepted the AER's position on the treatment of Infrastructure Planner costs as year 1 capex but remain of the view that recovery of certain early pre-period costs is appropriate.
- Revenue adjustment mechanisms – We consider the proposed adjustment mechanisms are appropriate to ensure consumers are not unnecessarily exposed to forecasting risk and have provided additional information or clarifications to support our position.
- Capital Expenditure Sharing Scheme (CESS) – We acknowledge the AER's preliminary position to apply the standard CESS and do not re-propose adoption of a modified CESS for this Project. In doing so, we recognise that it is important that the removal or modification of CESS is given appropriate consideration for future projects on a case by case basis. We note that for this Project, members of our Transgrid Advisory Council (TAC) recommended applying a standard CESS.
- Financeability – We acknowledge the AER's preliminary position to not apply a financeability adjustment and we do not re-propose an adjustment for this Project. In doing so, we recognise members of our TAC recommended did not support a financeability adjustment for this Project.
- Stakeholder engagement – Transgrid appreciates the detailed feedback from the AER, TAC and Consumer Challenge Panel (CCP) on the stakeholder engagement process for the Project. Transgrid is committed to building on improvements we have made, and further strengthening how we consult, document and demonstrate how stakeholder views have influenced our positions.

We also note that the AER's assessment of our forecast capital expenditure and operating expenditure for the Project is ongoing. Transgrid remains available to provide any additional information required to assist the AER in its review.

We appreciate the constructive engagement to date with the AER, the CCP and TAC on this Project and look forward to continuing to work with these stakeholders as the EII framework develops.

Should you or your team require any further information or clarification on this submission, please contact me at [redacted].

Yours sincerely

[redacted]

Alex McPherson

General Manager Regulation & Policy

Appendix 1 – Detailed response

Transgrid is pleased that the AER's Paper indicated key aspects of our revenue proposal are likely to be accepted. These include:

- our approach to calculating our revenue and quarterly schedule of payments, closing RAB, rate of return, inflation, proposed asset lives (excluding the financeability asset) and corporate income tax
- our capital expenditure (capex) forecasts for tendered works, other construction costs and easement costs
- 25 of the 29 proposed adjustment mechanisms
- our proposed approach to defer the decision to apply the efficiency benefit sharing scheme (EBSS) to the end of the first regulatory period.

We note that the AER's assessment of our forecast capex and operating expenditure (opex) is ongoing.

Given this, our detailed response to the AER's Paper is directed at the 'focus issues' identified; namely pre-period costs, adjustment mechanisms, the capital expenditure sharing scheme (CESS) and financeability. We have also provided additional commentary on our stakeholder engagement process, noting that this was discussed in detail by the AER and in submissions to our proposal.

1.1. Pre-period costs

Early pre-period costs

Transgrid has considered the AER's position on early pre-period costs and proposes a refined approach that addresses the feedback received. Specifically, our revised approach focuses on recovering costs for activities that occurred after the commencement of the Electricity Infrastructure Investment (EII) framework, can be linked to the Enabling CWO RNIP and were not otherwise compensated by EnergyCo or through other funding arrangements.

For context, prior to Transgrid and EnergyCo signing the Project Development Deed and agreeing an ongoing approach for cost recovery, the following activities occurred:

- In 2019, Transgrid began working with the NSW Department of Planning, Industry and Environment (DPIE) (as it was known at the time) as the State's jurisdictional planner to plan and develop the pilot CWO REZ.
- In June 2020, Transgrid entered into an agreement with ARENA and DPIE to undertake a detailed scoping study to accelerate and investigate the commercial, regulatory and technical feasibility of developing and delivering new transmission infrastructure for the CWO REZ.
- In November 2020, the NSW Electricity Infrastructure Roadmap was released. Subsequently, the Electricity Infrastructure Investment Act 2020 (EII Act) was enacted in December 2020.[1]

[1] Parliament of New South Wales, *Electricity Infrastructure Investment Bill 2020*.

- In early 2021, DPIE completed public consultation on an issues paper to inform the detailed design and declaration of a preferred access scheme for the CWO REZ.
- By mid-2021, the scoping study envisaged under the tri-partite agreement between ARENA, DPIE and Transgrid was substantially complete.
- In July 2021, Transgrid commenced specific limited scope early development activities for the CWO REZ transmission infrastructure.
- In November 2021, the CWO REZ was formally declared and EnergyCo was appointed as Infrastructure Planner for the CWO REZ by the Minister.
- In December 2021, EnergyCo formally advised Transgrid that the CWO REZ would be contestably procured.
- In April and May 2022, EnergyCo, in collaboration with Transgrid and AEMO, completed public consultation on the draft REZ Access Standards intended to apply to Central-West Orana REZ.
- By mid-2022, key development activity responsibilities shifted to EnergyCo completely, and Transgrid handed over relevant information to EnergyCo and its project team.
- Subsequently, EnergyCo and Transgrid agreed a funding approach for the achievement of discrete, defined milestones under the Project Development Deed, executed in January 2024.

We note the AER's concerns that some costs included in the revenue proposal as early pre-period costs were incurred prior to the commencement of the EII framework in December 2020. Transgrid's view is that these costs were sufficiently related to the Enabling CWO RNIP as these early scoping and feasibility activities supported the identification of key risks, options development and cost estimation, which were all required in order for the Consumer Trustee to make its authorisation decision. Transgrid has removed costs incurred prior to December 2020 from pre-period costs. A further discussion with the AER about how to treat these costs would be appreciated noting the EII-specific works commenced prior to the assent date (in anticipation of the introduction of the Act).

The AER has also raised concerns that the costs relate to a different scope of works than currently contemplated under the Consumer Trustee Authorisation and were incurred well before the proposed commencement of the regulatory period. We consider that only allowing cost recovery for costs that arose after confirmation of the authorised scope of works is unnecessarily restrictive and could have unintended consequences, including that network operators would be reluctant to undertake early works until a Consumer Trustee Authorisation is made. Ultimately, there are many early works activities that are essential to the development of a project's scope to allow the project to progress through usual development processes.

As outlined in our response to the information request by the AER on pre-period costs, Transgrid considers the early works that occurred in 2020-21 and 2021-22 informed the development of the scope and budget of the authorised works included in the Consumer Trustee's Authorisation. Given this, it is appropriate that the costs of this early development are recovered on the basis that they have a sufficient nexus to the authorised works. These early works activities allowed for the development of the scope of works required to support the connection of the Main CWO RNIP to the network to enable the CWO REZ to progress.

Finally, the AER noted that to the extent that prudent, efficient and reasonable costs were incurred prior to signing the Project Development Deed, it is expected that these costs would be reimbursed by EnergyCo. To clarify, the Project Development Deed with EnergyCo was signed in January 2024 and allows for recovery of costs relating to specific services provided by Transgrid to achieve defined milestones. As such, EnergyCo reviews and accepts prudent, efficient and reasonable costs incurred that relate to completion of the agreed milestones. Importantly, these milestones did not contemplate the activities that relate to the pre-period costs.

While EnergyCo separately reimbursed Transgrid for some preparatory consultant works and hand-over of relevant project information, these payments did not cover all relevant costs incurred. In agreeing these payment amounts, both parties were aware that not all costs were being reimbursed. Documentation demonstrating this shared understanding can be provided if required. Both Transgrid and EnergyCo understood that additional remaining costs could be claimed as pre-period costs under our revenue proposal.

Taking this into account, we propose to revise costs incurred in 2020-21 to only include those costs incurred after 3 December 2020, when the EII Act was established. Table 1 presents the revised costs for early development activities alongside the corresponding costs from our original revenue proposal.

Table 1 Original and Revised pre-period costs ($m, real 2025-26)

Pre period costs	2020-21	2021-22	Total
Revenue Proposal	4.7	3.5	**8.2**
Revised	2.7	3.5	**6.2**

Transgrid acknowledges that this is a novel and complex issue driven by the challenges associated with the transition to a new regulatory framework. Should the AER form an alternate view after considering our revised proposal, we remain open to further discussion. We also intend to engage with the AER further on cost recovery options for the remaining pre-period costs, noting these were prudently incurred in the long-term interests of consumers.

Infrastructure Planner (IP) costs

Transgrid accepts the AER's position on the treatment of IP costs, including how these costs should be recognised in the RAB. In doing so, we acknowledge that these costs will be recognised as year 1 capex and escalated by a half-year nominal WACC to reflect the contractual repayment date. We also note that the AER has confirmed that any application of this approach is intended to be CESS-neutral.

Transgrid appreciates the AER's clarification that any financing costs associated with the time lag between the time Transgrid incurs the costs and their repayment by EnergyCo is outside of the AER's remit, and unable to be recovered through the regulatory process.

1.2. Adjustment mechanisms

We consider it important to maintain the proposed adjustment mechanisms in our Revenue Proposal to ensure we can recover prudent, efficient and reasonable costs that are outside its control. Where adjustment mechanisms are accepted by the AER, there are no immediate cost impacts to consumers.

Barigan Creek Switching Station (BCSS) replacement expenditure (repex) and operating expenditure (opex) annual true ups

Transgrid maintains the proposed adjustment mechanism for repex and opex annual true ups associated with BCSS remains appropriate. There is significant uncertainty about the quantum of costs required due to the asset being developed, designed and constructed by a third party with minimal Transgrid involvement. This is not a typical industry approach. An adjustment mechanism ensures consumers only pay the relevant costs incurred because of the challenges associated with providing an accurate cost estimate.

In maintaining this position, Transgrid notes:

- While Transgrid's ability to consult on aspects of the BCSS interface mitigates risks associated with the BCSS cut-in works, these works are included as part of the base expenditure and are not the focus of the proposed adjustment mechanism.
- Contractual arrangements governing the transfer of BCSS, including independent certification and defects provisions, ensure Transgrid receives a compliant asset but do not dictate any equipment or component-level specification and asset management strategy, which is essential information when developing an efficient forecast.
- BCSS uncertainties have the ability to materially impact the associated costs required for repex and opex. The associated forecasting error means this uncertainty is best addressed through the implementation of an adjustment mechanism.

Each of these points are discussed in further detail below.

BCSS repex and opex uncertainty is not mitigated by consultation on the interface component

The AER noted that Transgrid was consulted on specific aspects of the BCSS design, particularly regarding the interface component.[2] The interface component relates to the BCSS cut-in works, where the asset connects to Transgrid's existing network infrastructure. We agree that this safeguard means Transgrid is adequately equipped to manage the risk associated with the interface component. Accordingly, the cost estimate for the BCSS cut-in works associated with this interface component have been included in our base expenditure forecast.

However, our proposed BCSS annual true-up adjustment mechanism applies only to the portion of the BCSS site and associated infrastructure not defined as interface works[3]. Transgrid has had very limited involvement in the design, development, and construction phases of these non-interface components. Unlike the interface component, where Transgrid has the opportunity to review design documentation at both the Substantial and Final Detailed Design stages, Transgrid can only review the Other Design Documents for BCSS after construction is complete and at the point of asset transfer. This creates significant forecasting risk, unable to be appropriately mitigated by Transgrid.

[2] Defined in Schedule 2 of the Interface Deed and scope of Separable Portion 4 works as per the EnergyCo TNA Project Deed.
[3] Defined as 'ACEREZ Works' and corresponding to the suite of 'Other Design Documents' as per the Interface Deed.

Contractual arrangements do not provide clarity on the asset management approach adopted

BCSS will be independently certified prior to being handed over to Transgrid. The Interface Deed also provides for defect remediation in the initial Defects Liability Period. This ensures Transgrid receives an asset compliant with EnergyCo's Specific Technical Requirements (STRs), which define the overarching functional specifications of the entire CWO REZ and its infrastructure. However, these standards do not extend to equipment or component specification and do not define the detailed operational performance or expected service life requirements at the equipment or component level.

There may be various whole-of-life asset management strategies that will individually satisfy the requirements of EnergyCo's STRs, however depending on the strategy adopted, very different expenditure profiles and trade-offs between capex and opex may arise. For example, an asset could be procured, designed and constructed in accordance with an asset management strategy that focuses on utilising lower capital cost equipment. This may then require more frequent replacement or more extensive maintenance throughout the equipment's lifecycle, meaning the asset owner would incur significant costs throughout the operations and maintenance phase. Alternatively, management strategies could result in lower opex profiles through less frequent replacement and lower-scale maintenance requirements.

Transgrid does not have oversight of ACEREZ's asset management strategy. We also acknowledge that ACEREZ and Transgrid have different incentive structures, which may result in a material difference in overall whole of life asset strategies adopted by either party. This means our experience in commissioning other switching stations is less relevant for this asset and, together with the lack of information, we are materially limited in our ability to develop a robust and accurate forecast.

BCSS uncertainties could result in material differences between actual and forecast costs

These uncertainties, alongside the new technologies and unknown suppliers that were discussed in our response to the AER's information request on this issue, mean that there could be a material difference between actual and forecast costs for repex and opex for BCSS. As discussed above, actual costs may be either higher or lower than forecast at the time of transfer. To address this risk, Transgrid considers a 'true up' adjustment to reflect actual costs incurred is most appropriate.

Alternatively, if the AER considers that annual true ups are not appropriate, we would be open to further engagement on an alternative solution that limits consumers' exposure to forecasting risk. This could take the form of a single 'true up' opportunity for example, at the end of the defect's liability period (scheduled to occur two years after operation of BCSS commences).

Unavoidable design and construct (D&C) contract variations

Transgrid supports the AER's likely acceptance of this adjustment mechanism and maintains the application of a cumulative cap of $25 million. We consider that an alternate delayed capex forecast approach would be difficult to practically implement and the cumulative cap provides sufficient incentives for Transgrid to undertake efficient capex.

The AER has indicated that a delayed capex forecast would be triggered by a single identified milestone. The unavoidable D&C contract variations adjustment mechanism is intended to address key risks associated with the project that occur throughout the project's construction period. This makes it difficult to select a trigger that serves the purpose intended by applying a delayed capex forecast (that is, allowing for a better

capex forecast at a time when uncertainty has substantially reduced). Given some key risks will occur late in the construction period and uncertainty will continue to exist, milestones earlier in the regulatory period would result in our customers being exposed to the risk of significant forecasting error. Conversely, a trigger that occurs late in the construction period would almost completely de-risk the activities.

In this context, Transgrid considers that the proposed adjustment mechanism that can be triggered by changes in the final design or construction methodology, and changes in the price of materials or labour rates is more appropriate. Additionally, the use of a cumulative cap strengthens our incentive to minimise costs. The cap has been determined based on the individual risks, based on the overall magnitude and likelihood of risks. Importantly, this cap does not completely de-risk these activities.

However, if after considering the above justification and the potential risk exposure to consumers, the AER continues to consider applying a delayed capex forecast is appropriate, it is important that the AER engages with us on any design and application parameters, including the components it would apply to, timing and trigger event/s (noting the proposed adjustment event covers three distinct unavoidable variation types). Tailored consideration would be necessary to ensure risk is appropriately allocated between consumers and Transgrid.

Variances in biodiversity offset costs

Transgrid maintains the proposed adjustment mechanism for variances in biodiversity offset costs remains appropriate. Whilst studies to assess the biodiversity offsets for the augmentation scope of works are more progressed than for line transpositions there remains significant uncertainty associated with all our biodiversity offsets. We consider this risk is best addressed through the implementation of an adjustment mechanism once associated costs are known. The application of a delayed capex forecast would not result in any strengthening of Transgrid's expenditure incentives. The adoption of the base expenditure estimate also exposes consumers to forecasting error.

In maintaining this view, we note biodiversity offset costs are externally driven and influenced by various factors outlined in our initial revenue proposal, including:

- the availability of offset sites
- whether consent for offsets deferral is provided
- whether a full or partial vegetation clearing model applies
- changes to project features including vegetation zones, species polygon mapping, species credit determinations and irreversible impact classifications
- updates to the Threatened Biodiversity Profiles data collection
- any additional credit obligations for indirect or prescribed impacts imposed.

These factors are not within Transgrid's control. This means applying a delayed capex forecast (intended to strengthen incentives for mitigating costs) is largely redundant, as Transgrid cannot mitigate, or otherwise reduce, the biodiversity offset costs in any meaningful way. Similarly, accepting the base expenditure estimate without the option for future adjustment means consumers may be paying more than required for

biodiversity offset costs. Indeed, since submission, we have observed movements in the biodiversity cost estimates, which continue to fluctuate.

The proposed adjustment mechanism ensures that consumers are not exposed to the forecasting error and pay no more than required for biodiversity offset costs. Relatedly, we received feedback from some TAC members that it was appropriate to reflect biodiversity offset costs as a pass-through amount given the externally driven nature of these costs. For these reasons, we maintain our proposed position as set out in the revenue proposal.

Should the AER not accept this adjustment mechanism (and noting the redundancy of applying a delayed capex forecast), we would advocate for an approach where the base expenditure forecast is adopted, and biodiversity offsets are excluded from the application of CESS. This reflects the approach taken by the AER in the HumeLink Contingent Project Application Stage 2 Determination where in the absence of the ability to include an adjustment mechanism, the AER determined that biodiversity offset costs are by their nature, sufficiently uncertain to justify exclusion from the application of CESS.

Planning approval delays

Transgrid supports the AER's likely acceptance of the planning approval delays adjustment mechanism. To support the AER's finalisation of the adjustment mechanism, we have refined the definition of a 'material impact' and specified the costs that the planning approval delays adjustment mechanism should relate to.

The proposed definition of the adjustment mechanism is:

A Planning Approval Delay event occurs where:

- *the EIS determination or subsequent approvals are delayed by more than 5 days, materially impacting Transgrid's delivery schedule; and*
- *the actual or forecast cost implications of the delay are known.*

The mechanism allows Transgrid to recover prudent, efficient and reasonable costs associated with facilitating the planning approval delays, including any Extension of Time claim under the D&C contract. This could include:

- *prolongation costs for the D&C contractor's work*
- *prolongation costs for Transgrid's project management and environmental management resources, including any additional contractor or consultant support required during the EIS delay period.*

For clarity, prudent, efficient and reasonable costs do not include costs that Transgrid is able to effectively mitigate.

As suggested by the AER, the updated adjustment mechanism definition now includes a delay date relative to the expected EIS approval date. The EIS is on the Project's critical path, and any delay in securing EIS approval beyond 8 June 2026 and subsequent CEMP approval within 91 days of EIS approval will materially impact Transgrid's delivery schedule. Based on our detailed analysis of the program, Transgrid is likely equipped to manage 5 days of delay before a material cost impact would occur. This is due to any delays beyond 5 days resulting in Zinfra missing an outage window, which would have a significant time and cost impact for the project (potentially a 4 month delay depending on outage schedules).

The AER also requested that the adjustment mechanism trigger should distinguish cost subject to the mechanism from costs that Transgrid is able to effectively mitigate. Transgrid has included further detail on the types of costs likely to be incurred in the updated definition. However, Transgrid also considers the initial wording of the adjustment adequately ensures only prudent, efficient and reasonable costs unable to be effectively mitigated can be claimed under an adjustment mechanism application. In our view, it is not appropriate to limit the applicable cost categories upfront to exclude any specific cost category.

There is significant uncertainty around the timeframe for potential delay. Delays have been up to 8 months for recent projects (e.g. Humelink). This uncertainty impacts Transgrid's ability to mitigate costs at any given point in time. For example, if there is an extended, confirmed delay, labour resources may be able to be reallocated to other projects. However, where there is a lack of clarity regarding the likely delay period, it is possible that resources could be required to be 'on stand-by' for the delay duration to avoid unnecessary off-boarding and on-boarding processes.

Similarly, delays to the EIS impacting D&C works could be managed by reallocating and resequencing works (and our D&C contractor is contractually obliged to do so). However, opportunities to do so are likely to become scarcer as the delay period extends.

While Transgrid will take all reasonable steps to ensure costs are mitigated, there is potential for various categories of costs to arise during a planning approval delay period, depending on the nature and extent of the delay. Rather than restricting the adjustment mechanism to a specific type of cost, Transgrid considers it more appropriate that an assessment of the prudency and efficiency of incurring these costs is undertaken at the time of application. This ensures that consumers pay no more than necessary for any planning approval delay costs irrespective of the type of cost incurred, whilst also ensuring Transgrid is incentivised to minimise its costs where possible or risk non-recovery.

In the event the AER considered that certain cost categories should be excluded from this adjustment mechanism, Transgrid's other construction costs estimate would need to be revised to include a P50 risk cost allowance to partially account for Transgrid bearing the associated risk.

Compulsory acquisition easement costs

Transgrid maintains that the proposed adjustment mechanism for compulsory acquisition easement costs remains appropriate. Rather than including a risk premium in our base expenditure and exposing consumers to forecasting risk, this uncertainty is better addressed by implementing an adjustment mechanism. This ensures consumers only pay if, and when, compulsory acquisition occurs.

In maintaining this position, Transgrid notes the base expenditure estimate assumes all easements will be secured through negotiated agreements with landholders. These costs are based on initial valuations, with a conservative premium applied to account for market conditions. A P50 risk cost allowance has also been included to account for potential complex property issues that may lead to higher-than-expected negotiated compensation outcomes.

Otherwise, Transgrid bears the risk of property valuation uncertainty that results in increases above this amount. This reflects the fact that Transgrid is actively involved in the negotiation process and can mitigate costs to a certain extent through its engagement strategies and negotiation approach.

This risk is different from, and distinct to, the risk associated with easements that proceed to compulsory acquisition. In such cases, valuations are determined by the Valuer General with reference to material provided by both parties and the outcomes are entirely outside of Transgrid's control. This makes forecasting the quantum of compulsory acquisition costs difficult.

To demonstrate the materiality of this issue, Transgrid's base expenditure included an estimate to acquire a specific easement, based on an independent valuation. The landholder has subsequently submitted a counter-estimate that is more than 17 times the amount (which excludes multiple other heads of compensation, yet to be determined). Given this significant discrepancy, compulsory acquisition is likely to occur where a value will be determined independently by the Valuer General.

Predicting the number of negotiations that will proceed to compulsory acquisition is also difficult due to the current stage of the process. At the time of this submission, negotiations with landholders are ongoing. Options agreements have been entered into for approximately 60 per cent of landholders related to the non-transposition related scope of works. Land acquisition for transposition works is in its early stages and will continue for approximately 6-12 months. To date, no options agreements have been entered into for the transpositions scope of works. This makes it difficult to forecast with any accuracy the nature and outcome of any compulsory acquisition required.

Overall, the adjustment mechanism remains appropriate as:

- Transgrid's ability to control these costs is limited. While Transgrid can manage the negotiated outcomes, it has no control over valuations determined through compulsory acquisition.
- The base capex forecast intentionally excludes compulsory acquisition costs due to the high degree of uncertainty on if and how these acquisitions will occur.
- Differences in forecast and actual easement costs could be material and have a significant cost impact, depending on the Valuer General's assessment.

Should the AER not accept the proposed adjustment mechanism, Transgrid would need to revise its other construction costs estimate to include a P50 risk cost allowance of approximately $5.65 million to partially account for Transgrid bearing this risk. This amount has been calculated based on analysis of the individual Project risks that may contribute to this type of adjustment event and the estimated costs of those risks, depending on the overall magnitude and shape of the distribution for each risk.

Consistent with our position on biodiversity offsets, if this adjustment mechanism was not accepted, we would advocate for compulsory acquisition easement costs to be excluded from the application of CESS as these costs are extremely uncertain.

Legal challenges arising from the compulsory acquisition process

Transgrid also maintains the adjustment mechanism for legal challenges associated with the compulsory acquisition process remains appropriate. This mechanism would only be triggered where a compulsory acquisition determination is made by the Valuer-General, and the landholder is unsatisfied and lodges an appeal with the Land and Environmental Court of NSW.

The likelihood and costs of these types of legal proceedings is extremely difficult to forecast. As a reference point, other agencies have incurred between $1 million and $3 million depending on the complexity of the proceedings. Our estimate of court costs, based on similar matters, is between $2 and $3.8 million.

Transgrid would seek to mitigate any costs by attempting to resolve matters through informal, lower-cost dispute resolution pathways. However, in some cases the process could be escalated to a court hearing. It is not appropriate to include an allowance in the base expenditure for these low-probability, high impact events. Instead, it is better addressed with an adjustment mechanism if and when a legal appeal of this nature occurs.

In forming this view, Transgrid notes:

- Transgrid's ability to control these costs is limited. While every attempt will be made to avoid court hearings, once a proceeding commences, costs are largely outside of Transgrid's control.
- The base capex forecast intentionally excludes any potential costs associated with these types of legal challenges due to the high degree of uncertainty surrounding the cost of any future proceedings.
- Differences in forecast and actual legal costs could be material and have a significant cost impact, depending on the nature of any future proceedings.

In the event that the AER did not accept an adjustment mechanism for these costs, it would be necessary to revise Transgrid's other construction costs estimate to include a P50 risk cost allowance to partially account for Transgrid bearing this risk.

Consistent with our position on biodiversity offsets, if this adjustment mechanism was not accepted, we would advocate for legal challenges associated with compulsory acquisition to be excluded from the application of CESS, noting these costs are extremely uncertain.

1.3. CESS

Transgrid notes the AER's preliminary position to apply an unmodified CESS to the Project and does not re-propose a modified CESS for this Project. In doing so, we recognise members of our TAC recommended applying an unmodified CESS for this Project.

Importantly, Transgrid notes the AER's view that modifying CESS may be less warranted for EII projects given the ability to manage risk through risk cost allowances and adjustment mechanisms. For this Project, if adjustment mechanisms for biodiversity offset costs, compulsory acquisition easement costs or legal challenges arising from compulsory acquisition are not accepted, there appears to be a clear rationale for a modified CESS applying to these cost categories. We would welcome further engagement with the AER on these cost categories.

It is also important to consider CESS in the context of other projects. While the AER did not consider that this particular Project necessitated a modification of CESS, this should not preclude consideration for future projects. As outlined in the recently updated Capital Expenditure Incentive Guidelines, the application of CESS to EII projects should be considered on a case-by-case basis because of the differences between the NER and EII frameworks. This is particularly relevant when considering the pipeline of future projects that Transgrid is required to deliver and the unique and complex technical, commercial and regulatory considerations that may impact the applicability of incentive schemes.

1.4. Financeability

Transgrid notes the AER's preliminary position regarding our proposed financeability adjustment and does not intend to repropose and adjustment for this Project. In doing so, we note that certain members of the TAC did not support Transgrid's financeability adjustment for the Project.

We note that Transgrid has an alternate interpretation of the 'do no harm' clause when assessing our financeability position with and without the Project. We will work with the Clean Energy Finance Corporation (CEFC) to clarify the intent of this clause for consideration in future project financeability applications.

Transgrid notes that the lack of project precedent for the application of the financeability assessment resulted in an approach that the AER did not consider suitable. We also acknowledge the AER's detailed feedback and commentary on our proposed approach and areas for improvement in its Paper and thank the AER for its transparency and clarifications regarding its preferred approach going forward.

We anticipate that as future projects arise, we will need to revisit our financeability modelling approach. We appreciate the collaborative way in which the AER has approached engagement on this issue. We intend to further engage with the AER going forward to better understand its preferred approach to ensure our future analysis meets the AER's expectations in respect of approach, justification and scenario testing.

1.5. Stakeholder engagement

Transgrid appreciates the detailed feedback from the AER, TAC and CCP on the stakeholder engagement process for the Project. Transgrid acknowledges there are opportunities to strengthen how we consult, document and demonstrate how stakeholder views have influenced our positions.

As part of our response to the AER's Paper, we presented the key preliminary positions to the TAC, shared information and encouraged members to make their own submission to the AER. We have also further considered their feedback on our revenue proposal and views presented in the AER's public forum when forming our final positions for this submission. Reflecting this, we have chosen not to further engage on specific issues in this submission, where members of our TAC have indicated a strong preference for a the AER's preliminary position to be adopted.

Looking forward, Transgrid is committed to strengthening the transparency, structure and effectiveness of our engagement model. Specifically, we are proposing the formation of a subcommittee for our 2028-33 revenue proposal, with an independent chair and direct consumer representation, to deepen collaboration and provide early input on complex issues.

We will also assess further opportunities to improve the engagement on EII projects, recognising that these projects operate under different frameworks and timeframes.

Overall, our goal is to make stakeholder engagement more structured, inclusive and outcomes-focused, ensuring it delivers tangible value to consumers and nurtures trust. We recognise that some constraints (e.g. project timing and confidentiality requirements associated with EII projects) will need to be managed collaboratively with stakeholders and the AER. We remain committed to continuous improvement and transparent dialogue across all our engagement activities.