MARINUS LINK

Response to the AER's Supplementary draft decision – Stage 1 – Part B (Construction costs)

19 December 2025

Responsibilities

This document is the responsibility of the Marinus Link Team, Marinus Link Pty Ltd, ABN 47 630 194 562 (hereafter referred to as MLPL).

Enquiries regarding this document should be addressed to:

Marinus Link
PO Box 721
Hobart TAS 7001
Email: team@marinuslink.com.au

MARINUS LINK

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1. Introduction and background

1.1 Project overview

Marinus Link is part of a larger project, referred to as Project Marinus, which will provide 1500 MW of new interconnection capacity between Tasmania and Victoria to be delivered in two 750 MW stages.[1] Project Marinus will be developed and owned by different entities:

- Marinus Link will be owned and operated by Marinus Link Pty Ltd (**MLPL**); and
- The North West Transmission Development (**NWTD**) component of Project Marinus will be owned and operated by TasNetworks.

The cable will run approximately 255km undersea from North West Tasmania to Waratah Bay in Victoria, and a further approximately 90km underground to the Latrobe Valley. Converter stations at each end will convert the electricity from high voltage direct current (**HVDC**) to high voltage alternating current (**HVAC**), for use in the Tasmanian and Victorian transmission networks.

The Australian Energy Market Operator (**AEMO**) has confirmed the importance of Marinus Link in successive Integrated System Plans since 2018. Based on market modelling completed by EY in October 2025, MLPL estimated the weighted average net market benefits for Stage 1 of Marinus Link to be $2,700 million (June 2023 prices). In other words, Marinus Link will deliver very significant benefits to the National Electricity Market (**NEM**) and consumers. Furthermore, by securing concessional finance MLPL's annual revenue requirements will be reduced by approximately 45%, so that consumers obtain the benefits of Marinus Link at a substantially discounted network cost.

1.2 Purpose of this document

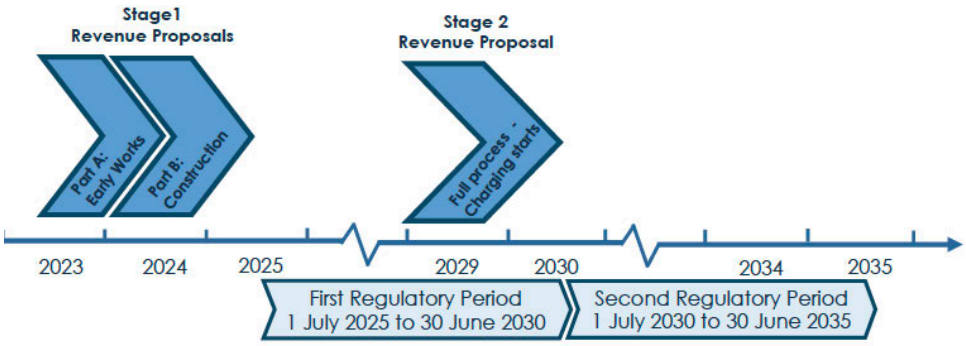
This document is MLPL's response to the AER's supplementary Draft Decision for the 2025-2030 regulatory period for Marinus Link, which covers the construction phase of the project and is referred to as Stage 1 – Part

[1] Australian Energy Market Operator (**AEMO**), draft 2026 Integrated System Plan, December 2025.

B (Construction costs). This follows the AER's decision on MLPL's Revenue Proposal – Part A (Early works), in which the AER fully accepted MLPL's proposed expenditure.

The revenue setting process is depicted in Figure 1 below. It shows that Stage 1 of Marinus Link is subject to a multi-staged revenue determination process. The AER's final decision for Stage 1 - Part B (Construction costs) is expected to be published by 6 February 2026.

Figure 1: MLPL's regulatory period and revenue determination timelines



In this response to the supplementary Draft Decision, MLPL addresses each of the issues raised by the AER.

1.3 Summary of the AER's supplementary Draft Decision

The AER's supplementary Draft Decision has assessed the prudency and efficiency of MLPL's forecast capital expenditure for the construction of the first stage of Marinus Link, which comprises five elements:

- **HVDC cable system** – this expenditure comprises the competitively tendered costs for the manufacture and installation of the submarine cables, land cables and landfall horizontal direct drilling (**HDD**). The contract for the provision of this scope of work has been awarded to Prysmian Powerlink, and our forecasts reflect the contractual terms and conditions that were settled on 1 August 2024.

- **Converter station equipment** – this expenditure comprises the competitively tendered costs for the converter stations, including HVDC equipment and design. The contract for the provision of this scope of work has been awarded to Hitachi Energy, and our forecasts reflect the contractual terms and conditions that were settled on 1 May 2024.

- **Balance of Works** – this expenditure relates to:
  - detailed design, construction and installation of the balance of plant forming part of the converter stations, being the main converter interface transformers and the main converter valves, including supports; and
  - the land cable civil works (including trenching works, HDD works and joint bays) and access roads.

  The Balance of Works contract has been awarded to TasVic Greenlink, a joint venture between DT Infrastructure Pty Ltd and Samsung C&T Corporation.

- **Support activities** – these support activities are essential to the timely, safe and efficient delivery of Marinus Link. These support activities will be provided by a mix of external service providers and in-house resources, including the cost of MLPL's Integrated Delivery Partner (**IDP**).

- **Risk allowance** – MLPL engaged E3 Advisory to ensure that a best practice risk allowance was modelled and supported by an appropriate level of evidence in accordance with the AER's guidance.[2]

During the AER's review process, MLPL responded to each of the AER's 15 information requests within the timeframe agreed with the AER.

Table 1 summarises the AER's supplementary Draft Decision on MLPL's forecast capital expenditure compared to MLPL's proposed expenditure in the update to its revised Revenue Proposal. It shows reductions in the support activities and risk allowance, with the latter reduced by 45%.

Table 1: Summary of the AER's supplementary Draft Decision ($m real 2023)[3]

Category	MLPL's Revised Revenue Proposal	AER's supplementary Draft Decision	AER's proposed reduction ($m)	AER's proposed reduction (%)
Converter Station Design and Equipment Supply	776.7	776.7	0.0	0.0%
HVDC Cable System – Submarine and Land Cables	908.6	908.6	0.0	0.0%
Balance of Works	909.1	909.1	0.0	0.0%
Risk allowance	361.5	198.7	162.8	45.0%

[2] AER, Regulation of actionable ISP projects, Guidance Note, March 2021, section 2.6.

[3] MLPL's expenditure forecasts excluded final milestone payments and commissioning costs, which will occur during the financial year commencing 1 July 2030. The milestone payments and commissioning costs are estimated to be $120 million. It also excluded the early works expenditure, which pre-dates the construction period.

Category	MLPL's Revised Revenue Proposal	AER's supplementary Draft Decision	AER's proposed reduction ($m)	AER's proposed reduction (%)
Support activities	539.3	523.8	15.5	2.9%
Total expenditure	**3,495.3**	**3,316.9**	**178.4**	**5.1%**

MLPL welcomes and accepts the AER's findings in relation to the forecast expenditure for cables, converter station equipment and Balance of Works. We do not make any further submissions on these matters.

In addition to its assessment of MLPL's capital expenditure requirements, the AER's supplementary Draft Decision also sets out its views on:

- The Capital Expenditure Sharing Scheme (**CESS**), which is an incentive scheme that applies to capital expenditure that is intended to encourage TNSPs to achieve efficiency savings. The AER adopted incentive rates that are closely aligned with those adopted for HumeLink and did not accept MLPL's proposal for a lower incentive rate, which reflected independent expert advice from Jeff Balchin, Incenta Economic Consulting (**Incenta**).

- The nominated pass through events, in which the AER accepted four 'standard' nominated pass through events proposed by MLPL (insurance coverage, insurer's credit risk, natural disaster, and terrorism), but rejected four others (unavoidable contract variations, contractor force majeure, contractor insolvency, and biodiversity events).

- MLPL's proposal to include enabling works for stage 2 of Marinus Link in the expenditure plans for Stage 1, which the AER accepted as likely to reduce the total project costs. The AER noted that it would consider AEMO's draft 2026 ISP, expected in December 2025, before finalising its decision. MLPL notes that the draft 2026 ISP has now been published, and it confirms that Stage 2 remains actionable. On that basis, MLPL expects the AER will confirm its finding in its supplementary Draft Decision, which MLPL welcomes.

- The AER proposes an adjustment to our estimate of the equity raising costs, which we accept and do not comment on further in this submission.

1.4 Structure of this response

The remainder of this submission focuses on those issues where MLPL does not accept the AER's supplementary Draft Decision. For each issue, we recap on our proposal and the AER's concerns, with an explanation of how we have addressed them. The remainder of this is structured as follows:

- Chapter 2 responds to the AER's assessment of MLPL's proposed capital expenditure for support activities. MLPL's detailed response on support activities expenditure is provided as Attachment 1 to this submission, which includes feedback from MLPL's recruitment service provider, [redacted], on labour rates and labour market trends.

- Chapter 3 responds to the AER's assessment of MLPL's risk allowance. MLPL has engaged E3 Advisory to update the risk allowance in response to the issues raised by the AER and its consultant, EMCa. E3 Advisory's report is provided as Attachment 2 to this submission. Further expert advice on the risk allowance from Aurecon is provided as Attachment 3 to this submission.

- Chapter 4 discusses the Capital Expenditure Sharing Scheme. To assist the AER, MLPL has engaged Incenta to comment provide an independent expert opinion, having regard to the other aspects of the AER's decision and the long term interests of consumers. Incenta's report is provided as Attachment 4 to this submission.

- Chapter 5 addresses the AER's supplementary Draft Decision in relation to MLPL's nominated pass through events.

2. Support activities

Key Points:

- MLPL welcomes the AER's supplementary Draft Decision, which largely accepts our forecast expenditure for support activities. MLPL considers that the AER's findings confirms that MLPL has adopted a robust and thorough approach to preparing its forecast expenditure, having conducted bottom-up and top-down assessments and independent reviews by E3 Advisory and Aurecon.
- While the AER's proposed reductions may appear to be modest, being $15.5 million or 3% of our forecast expenditure, our view is that it would be contrary to customers' interests to adopt these changes. For example, reducing resources dedicated to environmental management is not conducive to meeting regulatory obligations and community expectations.
- In this response, we have provided a detailed line-by-line response in relation to each adjustment proposed by the AER to explain why the reductions should be revisited in its final decision. We explain that the roles that the AER has removed need to be reinstated to enable the project to be delivered prudently and efficiently, and to meet our compliance obligations.
- We have also provided further information to support our labour rates, which reflect our unique circumstances, including the relatively short duration of the construction phase of the project, and the specialist nature of our resource requirements in an internationally competitive labour market.

2.1 MLPL's proposal

In preparing the expenditure forecasts for the 2025-2030 regulatory period, our forecasting approach commenced with a careful consideration of the Rules requirements; the AER's Better Resets Handbook[4]; and the AER's expenditure forecast assessment guidelines for electricity transmission.[5] MLPL's executive team and Board were extensively engaged in reviewing management's forecasts, including through the engagement of external advisors.

In relation to MLPL's support activities, our expenditure forecasts were developed on a 'bottom up' basis, having regard to the scope of work to be completed; the project schedule; the contractual terms and conditions

[4] AER, Better Resets Handbook Towards Consumer Centric Network Proposals, July 2024.

[5] AER, Expenditure Forecast Assessment Guideline for Electricity Transmission, October 2024.

for the Integrated Delivery Partner; development of an organisational structure and Resource Model; and expert input from MLPL's service providers.

The labour costs were established with reference to existing pay rates and benchmark estimates for new roles and escalated in accordance with the labour price indices forecast by Oxford Economics, which were provided in Attachment 8 of our revised Revenue Proposal. MLPL's executive team and Board applied a 'top down' review of the support activities expenditure to ensure that the forecasts are prudent and efficient.

Aurecon also undertook benchmarking to assess the reasonableness of the forecasts, and its report was provided as Attachment 9 to our revised Revenue Proposal. As explained in that report, Aurecon examined each category of expenditure, reviewed the scope and assessed the reasonableness of the forecast expenditure having regard to industry benchmarks where applicable. For each category of expenditure, Aurecon concluded that MLPL's forecasts reflect an appropriate scope and cost estimate.

2.2 AER's supplementary Draft Decision

In its supplementary Draft Decision, the AER reduced our proposed support activities expenditure from $539.3 million to $523.8 million (a reduction of approximately $15.5 million or 3%) on the grounds that it found certain costs to be overestimated or insufficiently justified. Specifically, the AER raised the following issues:

- **Duplicate roles**: The AER identified certain internal roles that it considered to be either duplicate positions or not commensurate with the business's needs. Those roles were excluded from the AER's alternate forecast.

- **Higher-than-necessary salaries**: The AER found that MLPL's proposed expenditure for certain corporate positions was higher than the AER's research considered reasonable. The AER made some allowance to account for MLPL's specific labour market challenges and the need to offer competitive salaries. In relation to some roles, however, the AER imposed a reduction to the forecast remuneration.

- **Specific Awards and Benefits**: The AER considered MLPL's proposed awards and benefits to be unnecessary given the salaries and other benefits already provided. The AER also considered that additional performance-based awards should be deferred until revenue is established.

- **Service providers and office costs**: The AER identified specific costs as not commensurate with the business's needs including professional memberships for staff and [redacted].

Following the publication of the AER's supplementary Draft Decision, MLPL sought further information from the AER on the roles that had been excluded and those roles that had been subject to a cost reduction. The

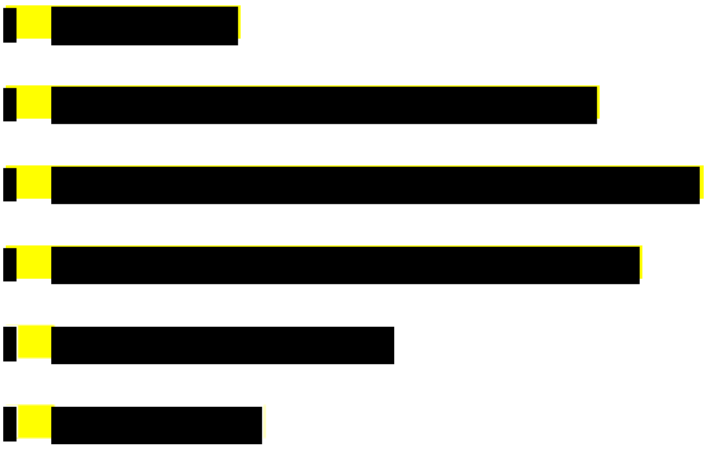
AER also explained which service provider costs had been reduced. By seeking this further information, MLPL has been able to respond in detail to the matters raised by the AER.

2.3 MLPL's response to the supplementary Draft Decision

MLPL welcomes the opportunity to respond to the AER's assessment of our support activities. MLPL is pleased that the AER has largely accepted our proposed expenditure, noting that MLPL's forecasting approach:

- considered the most effective balance between in-house delivery resources and engaging external specialists to ensure optimal resourcing;
- maintained a flexible approach to resourcing tasks;
- ensured that people, processes and systems are right-sized to address the construction phase of the project and to equip MLPL to undertake the role as a TNSP;
- carefully considered the roles and salaries required during the regulatory period;
- engaged Aurecon to conduct an in-depth independent review of the forecast capital expenditure; and
- coordinated an extensive review of the resourcing and cost basis individually and collectively by our executives, including the interim CEO and newly appointed CEO.

While the AER's proposed reduction in our support activities may appear to be modest, MLPL considers that making the changes proposed by the AER would not be in customers' best interests. In particular, MLPL is concerned that the AER is proposing to remove the following 11 roles from MLPL's support activities:



[redacted]

As detailed in Attachment 1 to this submission, we regard each of these roles as essential to the prudent and efficient delivery of Marinus Link. In particular, the attachment explains that:

- Many of these roles have unique functions that cannot be absorbed by other positions without creating gaps in compliance, governance, or operational efficiency.
- Marinus Link operates as a stand-alone mega-project across multiple jurisdictions, requiring specialised roles to manage regulatory, stakeholder, and operational challenges.
- Removing roles would increase risks related to non-compliance, financial errors, delays, and stakeholder trust, which could jeopardise project delivery.

The attachment also explains that the AER's proposed reductions in labour rates does not recognise the specific challenges facing MLPL in recruiting and retaining specialist staff. MLPL's labour rates are based on Mercer-evaluated remuneration levels, noting that Mercer are globally recognised for their expertise in benchmarking compensation and benefits. The attachment provides further detailed information to support MLPL's proposed labour rates, including feedback from recruitment company, [redacted], which explains:

- The context in which MLPL is recruiting people, including the challenges associated with a 5-year project that cannot offer longer term contracts; and
- Market trends and how that impacts Marinus Link's recruiting and remuneration/benefit levels.

MLPL considers that this further evidence demonstrates that our proposed labour rates are reasonable, given MLPL's particular circumstances. On that basis, we propose that our labour rates should be reinstated in the AER's Final Decision.

The AER also made a number of reductions to MLPL's non-labour costs, including:

[redacted]

[redacted]

MLPL has reviewed each of these elements, and accepted reductions where we have found that the original forecast could be reduced without impacting the project. In summary, MLPLs updated forecast for its support activities is only slightly lower than the update to our revised Revenue Proposal, being $539.1 million ($ real 2023).

3. Risk allowance

Key Points:

- MLPL engaged E3 Advisory to prepare its risk allowance in accordance with the AER's guidance and industry best practice. MLPL also obtained an independent assessment from Aurecon, which confirmed that the estimation approach and outcomes are appropriate. Aurecon also concluded that MLPL's proposed risk allowance falls 'comfortably within' national and international benchmarks.
- The AER engaged EMCa to review our risk allowance, and ultimately accepted EMCa's findings. EMCa's review resulted in a 45% reduction in MLPL's proposed risk allowance from $361.5 million to $198.7 million ($ real 2023), which is a reduction from 10.3% to 6% of total project costs.
- EMCa's report pointed to benchmarking analysis which found that the average of the AER's allowance for three 'recent mega electricity transmission projects in Australia' produced an average risk allowance of approximately 5%. A closer examination of the data, however, casts doubt on the veracity of this benchmarking approach. For example, one of the three projects is a brownfield project that is approximately 1/10th of the size of Marinus Link.
- MLPL accepts that it has the burden of proof to demonstrate that its proposed risk allowance is justified on a bottom up basis, even though the allowance benchmarks well against other projects, including HumeLink. MLPL engaged an external expert, E3 Advisory, to prepare the forecast allowance on its behalf – and Aurecon to review E3 Advisory's risk assessment approach.
- We explain that MLPL faces unique challenges compared to other major transmission projects, including its responsibility for managing Marinus Link across three jurisdictions: Tasmania, Victoria, and the Commonwealth. The example of MLPL's multi-jurisdictional scope illustrates why our risk allowance is towards the upper end of the risk benchmarks, rather than the lower end as proposed by the AER in its supplementary Draft Decision.
- MLPL has asked E3 Advisory to respond to the issues raised by EMCa and to provide further evidence to support the estimated risk allowance. MLPL has also asked Aurecon to consider the matters raised in EMCa's report and to comment on its findings.
- In light of the further analysis conducted by our independent experts, we have updated the risk allowance to $364.9 million ($ real 2023), which is closely aligned to our previous proposal. The slight increase in the risk allowance reflects the impact of the AER's decision to remove pass through events relating to biodiversity costs and contractor insolvency, which MLPL has accepted in this response. The updated risk allowance continues to benchmark favourably and is closely aligned with the AER's risk allowance decision for HumeLink, which we consider to be the most appropriate comparator project.

3.1 MLPL's proposal

MLPL engaged E3 Advisory to estimate the risk allowance for the Stage 1 construction costs. This engagement reflected a conscious decision by MLPL's Executive Management Team and Board to engage a suitably qualified consultant to prepare a risk allowance in accordance with the AER's guidance. MLPL has consistently focused its attention on ensuring that its revenue proposal is able to be accepted by the AER.

E3 Advisory's report explains that it applied a structured approach to risk analysis, combining qualitative and quantitative methods, in accordance with industry best practice and the AER's guidance note. To summarise, E3 Advisory's approach included the following steps.

- **Risk Identification**: Risks were identified through a comprehensive process conducted over an 18 month period, involving subject matter experts (**SMEs**), management, and external advisors. This process included interdisciplinary workshops, monthly updates, legal and commercial assessments, one-on-one meetings with risk owners, and reviews by senior leaders and independent experts.

- **Risk Rating**: Risks were rated based on likelihood and impact at three stages: untreated, pre-treatment, and post-mitigation. A risk matrix was used to prioritise risks and support prudent and efficient decision-making. A best practice approach was adopted in establishing the risk rating and risk matrix.

- **Risk Controls and Treatments**: Existing controls, including contractual, procedural and physical measures, were fully documented. Additional treatments were proposed to reduce risk likelihoods and consequences, having regard to feasibility, cost-effectiveness, and industry best practice.

- **Quantitative Risk Assessment**:

  - Risk data was consolidated to develop probability distributions and estimate outcomes, and these were validated through further workshops.

  - Risks were quantified using best-case, worst-case, and most-likely scenarios, with supporting evidence documented.

  - Detailed cost estimates were created using inputs from the contractual arrangements, SME assessments, and other sources.

- **Monte Carlo modelling**. In accordance with best practice, Monte Carlo simulations were performed using specialist software (@Risk) to run 10,000 iterations, generating a probability distribution curve to determine the P50 risk allowance (50% confidence level).

- **Risk Register**: A live risk register was developed to track, control, and monitor risks. The risk register is updated monthly as part of the project management process.

In summary, E3 Advisory's approach ensured that MLPL's risk allowance was robust, targeted, and aligned with the AER's guidance and industry best practice. In submitting it risk allowance, MLPL took the view that E3 Advisory had undertaken all reasonable enquiries and engaged with MLPL's internal and external experts appropriately to produce a risk allowance that could be accepted by the AER in accordance with its guidance and the Rules requirements.

To provide further assurance, Aurecon assessed MLPL's proposed risk allowance as part of its review of MLPL's capital expenditure forecasts. In its report, Aurecon commented that MLPL's aggregate contingency falls comfortably within the range of benchmarks observed for HVDC projects internationally on a percentage of capital expenditure basis. The median of the reference projects identified had an aggregate risk allowance of 9%, with the average being 8.6%.

3.2 AER's supplementary Draft Decision

The AER's supplementary Draft Decision reduced MLPL's proposed risk allowance from $361.5 million to $198.7 million ($ real 2023), a reduction of approximately 45%. In making its assessment, the AER considered and accepted the advice of its consultant, EMCa, noting that EMCa was engaged to provide the AER with expert advice.

The AER concluded that MLPL had not sufficiently justified or supported the prudency and efficiency of its proposed risk allowance. The AER also concluded that while a top-down assessment indicated that MLPL's proposed risk allowance may be considered reasonable, its bottom-up assessment indicated that the proposed risk allowance, overall, is likely to be overestimated.[6] The key points from the AER's assessment are summarised below:

- The AER expects TNSPs to provide well supported risk allowance proposals that clearly demonstrate the identification of risks and the efficiency of the associated cost estimates. However, the AER considered that MLPL has not achieved this expectation for many of its risks. The AER commented that its conclusion is supported by EMCa's assessment which noted the lack of evidence to support MLPL's proposal was the key issue in its review. For example, EMCa noted that while MLPL had listed

[6] AER, supplementary Draft Decision, Marinus Link Stage 1, Part B (Construction costs) Electricity Transmission Determination 2025–30, November 2025, page 16.

the information that the SMEs had regard to in providing their input, the detailed information itself was never provided.

- The AER considered that MLPL's risk cost estimates tended to have an upward bias. In particular, the AER commented that EMCa had demonstrated this bias by plotting the three-point risk estimated for the top 30 risks which showed that:
  - all three point-estimates result in positive risk costs;
  - the estimates are not symmetrical, with a skew towards the worst-case value; and
  - the P50 approximation based on the aggregate of the BetaPert and Uniform distributions used in the assessment is higher than the most likely value.
- The AER expressed concern that EMCa's analysis had shown that the best-case impact estimate, being the most optimistic case, indicated the project would incur an additional cost of 169 million. Both the AER and EMCa regarded this analysis as demonstrating that the risk allowance was overstated.
- Based on EMCa's advice, the AER considered that MLPL's analysis of time delays in developing its risk allowance had not fully accounted for its MLPL's ability to control risks, or other controls in place. The AER commented that while the risks by themselves may seem reasonable, the consequences are overestimated when considered as part of MLPL's risk controls.
- The AER commented that it is fundamental to risk analysis to consider the combination of the likelihood of the risk occurring and the consequence cost assumed for alignment (i.e. internal consistency). Based on advice from EMCa, the AER considered that MLPL's methodology had overestimated its costs relative to the likelihood of the risk occurring.
- In relation to the project delivery risks, the AER concluded that MLPL had underestimated its ability to mitigate the costs, including through its contracts with service providers. The AER also considered that the risk assessment included duplicated or overlapping of risks, inconsistency between qualitative and quantitative likelihood and probability assignment and/or bias towards overstating the probability of occurrence for the consequence scenarios.

In support of the reduced risk allowance in the supplementary Draft Decision, the AER pointed to EMCa's benchmark risk allowance of 5%, which was based on the AER's determinations for contingent projects in Australia. The AER also noted that EMCa's analysis included the AER's determination for Eyre Peninsula, which the AER regarded as 'considerably different in terms of scope and scale to that of Marinus Link'. The other two projects included in EMCa's benchmark were Project EnergyConnect and HumeLink.

3.3 Specific risk challenges impacting MLPL

Before setting out our response to the supplementary Draft Decision in relation to the risk allowance, it is useful to provide some specific examples as to why MLPL considers its risk profile to be more challenging than other major projects. In providing this further information, MLPL is conscious that it has repeatedly commented that it faces "unique" challenges, and we appreciate that the AER and stakeholders need to better understand the kind of challenges that are specific to MLPL and how they impact our risk profile.

One important difference between MLPL and other major transmission projects is that Marinus Link will traverse three jurisdictions, Tasmania, Victoria, and the Commonwealth. While other projects, such as Project EnergyConnect, may span more than one jurisdiction, the responsibility for delivering the project is typically shared between the TNSPs in each region, i.e., Transgrid and ElectraNet in relation to Project EnergyConnect, which means that each TNSP focuses on the requirements of its own particular jurisdiction. In contrast, MLPL is responsible for managing the Marinus Link across three jurisdictions, which sets it apart from other TNSPs.

We set out below an example of how operating across multiple jurisdictions impacts MLPL's risk profile. It should be noted that the following points are examples, and are not intended to provide an exhaustive list of the jurisdictional risks.

- **Regulatory and Legal Compliance Risks**

  The project is exposed to the challenge of navigating and complying with diverse laws, regulations, and approval processes across multiple jurisdictions. For example, the Electricity Industry Act in Victoria, the Electricity Supply Industry Act in Tasmania, and the Offshore Electricity Infrastructure Act in Commonwealth waters each have unique requirements. Non-compliance could lead to legal disputes, fines, or delays, with the added complexity of managing differing legal frameworks simultaneously.

- **Environmental requirements**

  Operating across jurisdictions increases exposure to environmental risks, as each region has distinct regulations and protected areas. Damage to sensitive ecosystems, marine environments, or cultural heritage sites could result in penalties, project delays, or reputational harm. The complexity of adhering to varying environmental standards across jurisdictions amplifies the risk.

- **Landholder and community engagement**

  The project faces the challenge of engaging with landholders, communities, and authorities across different jurisdictions, each with unique concerns and expectations. Native title and traditional

ownership issues vary significantly between regions, increasing the risk of disputes and opposition if these differences are not carefully managed.

- **Environmental and planning approvals**

  The project must meet separate environmental and planning requirements in each jurisdiction, such as the Environment Effects Statement (EES) in Victoria and the Environmental Impact Statement (EIS) at the Commonwealth level. Misalignment in timelines or requirements across jurisdictions could disrupt project schedules and increase costs.

- **Land Access and Tenure**

  Securing land access and tenure rights across multiple jurisdictions presents significant challenges. For example, reserved Crown land in Victoria has strict restrictions on permanent reservations, while Tasmania has different rules under the Crown Lands Act. These jurisdictional differences increase the risk of restricted access, legal disputes, or delays.

- **Coordination Challenges**

  Operating across jurisdictions exposes the project to coordination challenges, as it requires working with multiple authorities, including the Department of State Growth in Tasmania, DEECA in Victoria, and the Offshore Infrastructure Regulator at the Commonwealth level. The need for extensive communication and alignment between these entities increases the risk of miscommunication that have the potential to delay project execution.

MLPL also notes that the above examples only relate to the issues arising from Marinus Link being delivered across multiple jurisdictions. The nature of the project, including its route, technology and contracting structure introduce other specific challenges that increases MLPL's risk profile compared to other major transmission projects. These observations indicate that MLPL's risk allowance should be comparable with, or slightly higher than, other major transmission projects such as HumeLink. In the next section, we respond to the specific matters raised in the AER's supplementary Draft Decision regarding MLPL's proposed risk allowance, and summarises the further quantitative risk assessment undertaken by E3 Advisory on behalf of MLPL.

3.4 MLPL's response to the supplementary Draft Decision

In relation to our response to the AER's supplementary Draft Decision on the risk allowance, MLPL fully accepts the AER's observation that it is the TNSP's responsibility to provide evidence to support the risk assessment, including the mitigation measures, probabilities of occurrence and cost consequences. As already

noted, MLPL engaged E3 Advisory to ensure that its risk allowance is a robust, unbiased P50 cost estimate of the risks to the delivery of Marinus Link. In addition to engaging E3 Advisory, Aurecon explained that Marinus Link's cost allowance of 10% benchmarks 'comfortably within' allowances for other projects:[7]

> "Based on our review, the aggregate contingency put forward by MLPL falls comfortably within the range of benchmarks we have observed for HVDC projects internationally on a percentage of capital expenditure basis. The median of the reference projects identified had an aggregate risk allowance of 9%, with the average being 8.6%. NeuConnect and GreenLink were at the lower end of the range observed."

While MLPL accepts the AER's observation that the information provided in support of our risk allowance to date has not justified the proposed allowance to the AER's satisfaction, MLPL considers that the top-down benchmark remains a highly relevant consideration in determining the reasonableness of the allowance. In that regard, MLPL notes that EMCa proposed a benchmark of 5%, as noted in the AER's supplementary Draft Decision:[8]

> "EMCa's assessment also benchmarked the risk allowance based on AER determinations for contingent projects in Australia which indicated an average risk allowance of approximately 5%. However, we note this analysis included the AER's determination for Eyre Peninsula which is considerably different in terms of scope and scale to that of Marinus Link."

In Table 2 below, we have prepared background information on each of the three projects that comprise EMCa's benchmark alongside the proposed risk allowance for MLPL in the AER's supplementary Draft Decision. It shows that two of the three projects in EMCa's benchmark are not suitable benchmarks for MLPL's risk allowance for the following reasons:

- Eyre Peninsula was a brownfield project completed more than 2 years ago which involved upgrades to an existing transmission line and substations.
- The capital expenditure allowance for Eyre Peninsula is approximately 1/14th of the allowance for HumeLink, which is a greenfield project that is similar in scale to Marinus Link.

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[7] Aurecon, Marinus Link Stage 1B Revenue Proposal Updated Independent Review of Marinus Link Stage 2 Expenditure July 2025 to June 2030, July 2025, page 124.

[8] AER, supplementary Draft Decision, Marinus Link Stage 1, Part B (Construction costs) Electricity Transmission Determination 2025–30, November 2025, page 16.

- Project EnergyConnect is expected to exceed the AER's capital expenditure allowance by approximately $1.5 billion[9], which vastly exceeds the risk allowance of $43.7 million.

- The risk allowances for PEC and Eyre Peninsula were set at least 4 years ago, when the risks associated with large greenfield transmission projects were not fully understood.

Table 2:EMCa benchmark projects and AER's supplementary Draft Decision

Project name	Project type and date	Project costs $m	Risk allowance $m	Risk allowance %
Eyre Peninsula	Brownfield - Sept 2020	$280.0m	$12.7m	4.5%
Project EnergyConnect (PEC)	Greenfield - May 2021	$1,817.9m	$43.7m	2.5%
HumeLink	Greenfield – Aug 2024	$3,964.8m	$382.1m	9.6%
EMCa benchmark – average of Eyre Peninsula; PEC and HumeLink				5.5%
Marinus Link (Supplementary Draft Decision)	Greenfield – Nov 2025	$3,316.9m	$198.7m	6.0%

In support of its three-company benchmark, EMCa's report makes the following comments:[10]

> "Whilst the risk allowance for the Marinus Link project lies within the range reported by Aurecon, including after adjustment, we also compared this with determinations for Project Energy Connect, Eyre Peninsula and HumeLink. In these cases, confined to recent mega electricity transmission projects in Australia, the average risk allowance was approximately 5%." (emphasis added)

In contrast to EMCa's commentary, however, the data shown in Table 2 does not show that the three-company benchmark is 'confined to recent mega transmission projects in Australia'. MLPL considers that HumeLink is the only reasonable comparator company in EMCa's benchmark, which would provide a risk allowance of 9.6%

[9] It should be noted that the dollars presented in Transgrid's update are expressed in 2023 dollars, whereas the determination is expressed in 2018 prices. Transgrid, EnergyConnect update, January 2025

[10] EMCa, Assessment Of Proposed Risk Allowance Expenditure For Stage 1, September 2025, paragraph 95.

which is very closely aligned with MLPL's proposed risk allowance. The AER appears to acknowledge this point in its supplementary Draft Decision:[11]

> "In terms of a top-down assessment, we consider MLPL's proposed risk allowance of 10% of total capex could be considered reasonable when compared to similar type transmission projects. As noted by Aurecon, our decision for Transgrid's HumeLink included a risk allowance that equates to approximately 9.6% of Stage 2 total capex."

In addition to the benchmarking presented in Table 2, EMCa also cites Ofgem's recent decisions as evidence to support a lower benchmark risk allowance for MLPL. However, the UK's cap and floor regime provides a de-risked framework that guarantees a minimum rate of return on the efficient costs of the project. Within this framework, the risk allowance provided by Ofgem is a 'placeholder' amount that is not comparable to the risk allowance provided by the AER. In the latter case, the TNSP is exposed to the risk of very substantial financial penalties if actual costs exceed the AER's allowance, which would not arise under the cap and floor regime. In the Australian regime, therefore, setting a low risk allowance has the potential to undermine incentives for efficient transmission investment, contrary to the National Electricity Objective, in a way that would not arise under the cap and floor regime.

While MLPL considers that the top down benchmarking analysis supports MLPL's proposed risk allowance of 10.3%, we also recognise the importance of ensuring that the bottom up justification of the risk allowance is valid and robust. As already noted, MLPL engaged E3 Advisory to ensure that the approach adopted is 'best practice'. In July 2025, MLPL also engaged Aurecon to conduct an independent review of E3 Advisory's approach, in which Aurecon reached the following conclusions:[12]

> *"Overall, the process undertaken appears robust. The E3 Advisory Risk report comprehensively outlines the scope, AER compliance requirements and structuring of the assessment given the contract packaging and pricing approach. Residual risk requirements and principles are clearly stated and appear to align with regulatory guidance and best practice. The risks that were considered in the QRA are clearly set out and detailed.*
>
> *In terms of compliance with AER requirements E3 Advisory ensured for each risk item that:*
>
> - *Risks could not be reasonably controlled by MLPL.*

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11 AER, supplementary Draft Decision, Marinus Link Stage 1, Part B (Construction costs) Electricity Transmission Determination 2025–30, November 2025, page 16.

12 Aurecon, Marinus Link Stage 1B Revenue Proposal Updated Independent Review of Marinus Link Stage 2 Expenditure July 2025 to June 2030, July 2025, pages 120-121.

- *Risk would not be managed by MLPL as part of business-as-usual operations.*
- *Risk was not symmetrical.*
- *Risk was not covered by contract terms.*
- *Risk was not covered by insurance or recoverable via a third party.*
- *Risk was not covered via a pass-through event.*

MLPL and E3 Advisory undertook an iterative approach comprising a series of risk-focused workshops with key stakeholders. This is an effective way to identify discrete risk and objectively consider the impact of those risks.

[…]

The risk register suggests that each risk is modelled using a BetaPERT distribution. A BetaPERT distribution may often favour the most likely outcome, reflecting a tendency for outcomes to cluster around it. E3 Advisory has commented that the BetaPERT's smooth, bell-shaped curve provides a more realistic representation of uncertainty than simpler alternatives like the Triangular distribution, particularly when precise historical data is unavailable. Additionally, while E3 Advisory's overall risk assessment is conducted using a probabilistic Monte Carlo approach, the BetaPERT distribution has the advantage of supporting a formulaic approximation, enabling a reasonable single-point estimate to be calculated and reported for each risk, consistent with AER reporting expectations.

Aurecon is satisfied with the above reasoning for the use of the BetaPERT distribution and notes it is a commonly accepted approach in Industry."

MLPL notes that the AER's consultant, EMCa, did not agree with the conclusions in Aurecon's report. Instead, EMCa commented that the analysis conducted by E3 Advisory was 'upwardly biased' and was not supported by sufficient evidence. MLPL does not accept that the estimates are upwardly biased, noting that we engaged external experts to ensure that the estimates complied with the AER's guidance.

MLPL fully accepts that the onus falls on us to justify the bottom up assessment of the risk allowance. To this end, MLPL has engaged E3 Advisory to respond in detail to the issues raised by EMCa and to provide additional supporting information. In relation to the criticisms made by EMCa, E3 Advisory's report explains that its approach is consistent with best practice, noting that:

- The approach used to determine the probability and three-point estimates follows industry best practice, and which is particularly designed to overcome biases (including optimism, availability, confidence and anchoring biases) that can undermine the realism of a quantitative risk analysis. The

approach includes selecting a subject matter expert team and undertaking a structured process over an 18 month period.

- Credible risk scenarios were developed, with SMEs determining the probability of occurrence and defining best-case, most-likely and worst-case impacts, considering all controls, contract mechanisms and available project information.

- Qualitative risk assessment followed ISO 31000 (2018), with each risk first assessed without controls, then reassessed for residual likelihood and consequence using the MLPL Risk Matrix from the MLPL Risk Management Framework.

- Controls and future treatments were identified through workshops and interviews, enabling reassessment of Controlled and Post-Treated Likelihoods; this process continued iteratively through monthly updates.

- Quantitative risk assessment applied the Hollmann Model (AACE RP 65R-11), combining an event-based risk register with Monte Carlo simulation to quantify cost and schedule exposure.

- Likelihood assessments reflected both current controls and committed, funded future treatments, consistent with Australian Federal Cost Estimation Guidance (IIP 2023 – GN3A).

- All probability and impact estimates were informed by historical data, structured expert elicitation (e.g., Delphi), industry benchmarks from international and Australian projects in delivery and completed, case studies or research into performance of projects, formal analytical methods (e.g., weather modelling) and independent assurance review to ensure rigor and alignment with regulatory expectations.

E3 Advisory also respond to the criticisms of 'upward bias', which were raised by EMCa and accepted by the AER. Most importantly, E3 Advisory also provide further supporting information in relation to the specific risks that were adjusted by EMCa. E3 Advisory's report is provided as Attachment 2 to this submission.

In addition, MLPL has asked Aurecon to provide its feedback on EMCa's concerns and to supplement its earlier analysis where possible to address the issues raised. Aurecon makes the following observations regarding E3 Advisory's approach:[13]

[13] Aurecon, Aurecon's Response to AER Queries on MLPL Expenditure Submission, December 2025, page 1.

"The Monte Carlo modelling conducted by E3 on behalf of MLPL appears to be methodologically sound and does not indicate bias towards worst-case scenarios from a technical perspective. This is evident by the following:

- The use of the widely accepted BetaPERT distribution is appropriate as a means of capturing experts' most likely values compared to a simple triangular distribution. This choice allows for a more realistic and representative reflection of uncertainty within the model variables.
- MLPL's risk assessment aligns with recognised practices outlined in ISO31000, including:
  - facilitated workshops with competent participants,
  - thorough risk identification,
  - validated likelihood and impact assessments, and
  - the application of Monte Carlo simulation for a rigorous probabilistic analysis
- While Aurecon did not participate in these workshops, it appears that the participants who took place in the quantitative risk assessment workshops were appropriately qualified. Thus, the quantitative assessment has been generated on the basis of the inputs of stakeholders with project expertise and deep understanding of project risks."

Aurecon also makes the following observations in relation to concerns it has identified with EMCa's methodology:[14]

"…there are signification concerns about the statistical rigor and robustness of EMCa's methodology in defining these scenarios which have informed the AER's draft decision:

- From the information provided, it appears that EMCa has simply applied an arbitrary percentage reduction to the recommended P50 values without re-running the Monte Carlo simulation or redefining the underlying input parameters, namely, risk likelihoods and three-point estimates
- The approach distorts the true uncertainty inherent in the model and fails to accurately reflect the underlying risk distributions. Further, it indicates that EMCa has not assessed each risk on its merits, rather has applied formulas to reduce the impact of risk.

[14] Aurecon, Aurecon's Response to AER Queries on MLPL Expenditure Submission, December 2025, pages 1-2.

- Critical aspects such as the variability and likelihood of low probability, high impact events (tail risks) are not appropriately captured. Furthermore, adjusting the P50 values alone to fit preconceived outcomes introduces bias, rendering the results unreliable and statistically invalid for informed decision making or risk evaluation.

Ultimately, the Monte Carlo simulations depend on probabilistic inputs provided by experts to model a realistic range of outcomes. Modifying summary statistics like the P50 without revisiting the full distribution and underlying assumptions undermines the modelling robustness and credibility."

We regard the above findings as particularly important as the AER reviews the additional information presented in this submission to support MLPL's risk allowance. Specifically, MLPL considers that its early submission and the further information presented in this response to the supplementary Draft Decision reflects industry best practice in accordance with the Rules requirements and the AER's guidelines. In that regard, Aurecon makes the comments in comparing the adjustments proposed by EMCa with E3 Advisory's approach to estimating MLPL's risk allowance:[15]

"…the EMCa approach to estimation of the P50 risk allowance appears to be based on applying standard reduction factors or adjustments to probabilities. This is not a credible approach applied in the risk industry, nor does it reflect the outcome that would be achieved via a monte carlo analysis.

[…]

It is Aurecon's opinion that an appropriate risk allowance for the project should be based on a quantitative risk assessment and in line with ISO31000 practices, as originally undertaken by E3."

Aurecon's report is provided as Attachment 3 to this submission.

As already noted, MLPL recognises that the onus falls on us to demonstrate that the proposed risk allowance is consistent with the Rules requirements and the AER's guidelines. MLPL considers that the response prepared by E3 Advisory provides a comprehensive response to the issues raised by EMCa and should reassure the AER and stakeholders that the estimating approach is consistent with industry best practice and results in a prudent and efficient risk allowance.

In addition to responding to the issues raised by EMCa, E3 Advisory has updated its analysis and re-run its Monte Carlo model to determine the P50 risk assessment. The resulting risk allowance is $364.9 million, which

[15] Aurecon, Aurecon's Response to AER Queries on MLPL Expenditure Submission, December 2025, page 6.

is 10.4% of MLPL's proposed capital expenditure. MLPL's proposed risk allowance is very closely aligned with the risk allowance for HumeLink and benchmarks well compared to other HVDC projects internationally.

The slight increase in the risk allowance compared to our revised Revenue Proposal reflects the net impact of the removal of one risk and the inclusion of a risk allowance relating to biodiversity costs and contractor insolvency risk. In this submission, we have accepted the AER's decision to reject our proposal for nominated pass through events that reduce the required risk allowance. Our response to the AER's supplementary Draft Decision on our proposed pass through events is provided in Section 5.

4. Capital Expenditure Sharing Scheme

Key Points:

- MLPL supports the application of the Capital Expenditure Sharing Scheme, which provides incentives to deliver Marinus Link efficiently. We are concerned, however, that the AER's proposed incentive rates exposes MLPL to excessive risk, given the unique characteristics of the project.
- The AER's supplementary Draft Decision imposes an increased incentive rate above 10% overspend compared to the AER's Initial Draft Decision. In addition, the combination of the incentive rate and a low risk allowance means that MLPL is treated materially less favourably than HumeLink despite having a similar risk profile.
- MLPL has engaged Incenta to provide an independent expert opinion on the AER's supplementary Draft Decision, noting that Incenta assisted in the development of MLPL's CESS proposal. Incenta expresses concern that the AER's approach is not well-founded and may have unintended consequences that are contrary to the long term interests of consumers. Incenta notes that Ofgem's latest decision on the capital expenditure incentive scheme in the UK supports Incenta's earlier views on the CESS and MLPL's proposal.
- In this submission, MLPL asks the AER to reconsider its position having regard to Incenta's opinion and the Ofgem decision. In terms of a remedy to the issues raised, MLPL considers that the AER should also adopt Ofgem's approach or, alternatively, apply the 70/30 incentive rate up to +/-5% and a 90/10 rate thereafter, which would be closely aligned with Ofgem and, most importantly, would appropriately recognise MLPL's unique circumstances including the total absence of project diversity which distinguishes MLPL from all other TNSPs.

4.1 MLPL's proposal

The AER has developed incentive schemes over a number of years to drive improvements across all aspects of a TNSP's performance. Typically, these schemes are described at a high level in the Rules, and the AER is given the task of developing detailed guidelines to define their application and the circumstances in which they can be varied. The Capital Expenditure Sharing Scheme (**CESS**) is the only incentive scheme that will apply to MLPL during the 2025-2030 regulatory period, as Marinus Link will not be operational until the following regulatory period. In broad terms, the CESS applies a financial penalty or bonus depending on whether the TNSP's actual capital expenditure is above or below the AER's allowance.

For the 2025-2030 regulatory period, the principal question relating to the application of the CESS to MLPL is how the incentive rates should be designed. The AER has previously recognised that major greenfield transmission projects, such as Marinus Link, are exposed to greater forecasting risk compared to 'business as usual' augmentation and replacement capital expenditure for which the CESS was originally designed. For that reason, the AER has recognised in its CESS guideline that it may be appropriate to adopt a different incentive rate to the default 70/30 rate.

In our revised Revenue Proposal, we responded to the feedback provided by the AER, the CAP and other stakeholders in relation to our earlier proposal to vary the CESS incentive rates, which the AER did not accept. To progress the debate and provide an additional perspective, we engaged Jeff Balchin, who has more than 30 years' experience working for regulators and regulated companies, to provide an independent expert opinion on the appropriate incentive rates, having regard to the Rules requirements and the interests of customers.

In our revised Revenue Proposal, MLPL adopted Jeff Balchin's recommendation that a 90/10 sharing rate applies symmetrically to overspends or underspends up to 10% of MLPL's capital expenditure allowance, with an incentive rate of zero thereafter. For overspends above 10%, the AER's ex post review should be relied upon to ensure that MLPL continues to face a powerful incentive to incur capital expenditure efficiently. Jeff Balchin noted that ex post review provides an especially powerful and effective incentive mechanism as it exposes MLPL to the risk of actual costs being disallowed from the regulatory asset base if the expenditure is found not to be prudently and efficiently incurred.

Jeff Balchin's preferred solution adopted a position somewhere between MLPL's original proposal and the AER's Initial Draft Decision. In his report, he explained that the purpose of the CESS, as specified in the Rules, is to provide each TNSP with an incentive to improve its cost efficiency and to provide bonuses or penalties which are commensurate with its efficiency performance. As such, the CESS is not intended to be a risk sharing mechanism, contrary to the views expressed by some stakeholders. Accordingly, Jeff Balchin explained that it is appropriate for the design of the scheme to focus principally on the opportunities for a TNSP to make efficiency savings and the level of financial reward and penalty that is required to bring about those improvements on behalf of consumers. It was also noted that setting a higher than necessary incentive rate would not be in consumers' interests, as it would translate to a higher cost of capital (and prices to consumers) or less than efficient levels of transmission investment. Jeff Balchin's report was included as Attachment 10 to our revised Revenue Proposal.

4.2 AER's supplementary Draft Decision

The AER's supplementary Draft Decision rejected the approach proposed by MLPL, which reflected the independent advice from Jeff Balchin. It considered that MLPL's proposal was too low-powered to induce

sufficient cost containment effort, particularly above or below the 10% over or under spend mark. For example, the AER explained that under MLPL's proposal if MLPL overspends by 30%, the CESS penalty is only 1% with consumers paying for most of the increase in costs (according to the AER, 97%).

In relation to the expert opinion provided by Jeff Balchin, the AER commented that ex-post reviews are a poor substitute for effective incentive schemes. In practice, the AER argued that it is difficult to identify all of the relevant issues after the event, and in particular the day-to-day management of projects and contractors that is so important to contain costs. Furthermore, the prospect of ex-post reviews leaves uncertainty about financial outcomes for investors.

The AER also noted that it received three submissions on the CESS, from the EUAA, and MLPL CAP members Mr John Pauley and Professor Richard Eccleston. All three submissions supported a higher sharing than proposed by MLPL, with a preference to maintain a 70/30 sharing ratio for all overspends and underspends.

The AER explained that the financeability risks for MLPL are likely to be higher than usual because:

- The risk of forecasting error is high as forecasting for large greenfield projects is inherently more difficult than recurrent capex.
- Transmission and distribution networks normally have a 'portfolio' of projects which reduces the impact of forecast error for any one of those projects. As a single asset business, the AER commented that MLPL is an extreme example of a lack of portfolio diversification opportunity because it has just the one project and will not have offsetting spend variability on other projects.
- More factors may be beyond the control of the TNSP for large complex projects than routine ones.

For these reasons, the AER explained that it was not appropriate to adopt its standard 30:70 sharing ratio. In its supplementary Draft Decision, the AER adopted the following incentive rates:

- A 70/30 sharing ratio for over/underspends up to 10%.
- A fixed 90/10 sharing ratio for over/underspends exceeding 10%

These incentive rates are closely aligned with HumeLink, with greater clarity regarding the arrangements above a 10% overspend. The AER explained that the resulting CESS sharing ratio is slightly higher than the Initial Draft Decision for large overspends. For example, the total financial impact of a 30% overspend on MLPL would be 5% rather than 4.2% due to the slightly higher incremental sharing ratio beyond a 10% over or under spend. However, the AER considered the resulting CESS still provides a good balance between incentives and protecting MLPL's financial viability.

4.3 MLPL's response to the supplementary Draft Decision

MLPL is concerned that the AER has increased the incentive rates compared to its Initial Draft Decision, despite the analysis presented by Incenta which showed that those incentive rates were already too high.

In MLPL's view, it is important to consider the incentive rates with reference to the actions that a TNSP is able to take in response to those incentives. In that regard, it is important to reiterate that the Rules require the CESS to drive efficient performance and not a 'fair sharing' of cost overruns. The financial penalty imposed on MLPL associated with a 30% overspend would be $165.8 million which is approximately 68% of the total expenditure that MLPL expects to incur on activities that could be scaled up in response to an emerging project issue.[16] As an emerging issue may not arise until part way through the 5-year regulatory period, the incentive penalty as a percentage of the scalable activities will be even higher than 68%, and possibly exceeding 100%.

This simple analysis illustrates that the AER's incentive scheme imposes financial penalties that are excessive because they are unnecessarily large compared to MLPL's ability to respond. In those circumstances, the application of the AER's proposed incentive rates would be analogous to imposing a fine or financial penalty on MLPL, rather than providing a meaningful incentive.

MLPL is also concerned that the AER position on the CESS is inconsistent with its proposed risk allowance, as discussed in the previous section, particularly when compared to the AER's recent decision for HumeLink. In particular,

- On the CESS, the AER acknowledges that for a project such as Marinus Link 'more factors may be beyond the control of the TNSP for large complex projects than routine ones', and that incentive rates closely aligned with those adopted for HumeLink are warranted; and
- On the risk allowance, the AER has rejected MLPL's proposed risk allowance which is very closely aligned with HumeLink's, and imposed a 45% reduction.

The net effect of the AER's supplementary Draft Decision is to increase the CESS penalty applying to MLPL and reduce the expenditure allowance, which makes it far more likely that financial penalties will apply. For that reason, MLPL considers that both the CESS and the risk allowance need to be recalibrated to provide a

[16] Incenta, Application of the capital expenditure sharing scheme to the Marinus Link project, Report for Marinus Link Pty Ltd, July 2025, paragraph 77.

reasonable package of measures that are commensurate with risks associated with delivering Marinus Link, which the AER has acknowledged to be a complex project.

In this response to the supplementary Draft Decision, we have asked Incenta to provide any further observations that may assist the AER in developing its final decision. Incenta's report is provided as Attachment 4 to this submission. In its report, Incenta has highlighted the following points:

- The AER has adopted a substantially higher penalty rate for MLPL compared to its Initial Draft Decision. Specifically, the AER's earlier decision indicated an incentive rate of 5.9% for expenditure above 10%, and so has imposed an increase in the incentive rate from 5.9% to 10%.
- Customer preferences for higher incentive rates stem from a desire for risk-sharing, which misaligns with the purpose of the CESS, as defined by the Rules.
- The AER's decision may inadvertently encourage an excessive focus on cost cutting, undermining project quality and consumer interests.
- The AER should consider Ofgem's proposals, which offer a more balanced approach to managing cost uncertainties while maintaining incentives for efficiency.

In relation to Ofgem's proposals, Incenta explains that its approach adopts the following incentive rates:

- 25% incentive rate within a band of ±5% of the regulatory allowance.
- 5% incentive rate for the next ±10% (i.e., out to ±15% underspends or overspends).
- 0% incentive rate (cost pass-through) beyond ±15% underspends or overspends.

Incenta further explains that concessional equity will both sharpen MLPL's responsiveness to incentives and lower its capacity to absorb financial penalties:[17]

> "[...] any benchmarking of incentive schemes between HumeLink and Marinus Link assumes that the projects are otherwise equivalent in terms of their likely responses to financial incentives and capacities to absorb potential financial penalties. However, I observed in my previous report that Marinus Link is a special case in that it will receive concessional equity (i.e., as well as concessional debt). The receipt of concessional equity means that Marinus Link will have less of a "buffer" in its cash flows (i.e., its return on equity will be lower), which would be expected to increase its

[17] Incenta Economic Consulting, CESS for Marinus Link construction – comment on the supplementary draft decision, December 2025, page 6.

> responsiveness to financial incentives and lower its capacity to absorb financial penalties. Moreover, I also observed that Marinus Link's method of financing is different to that of ordinary firms (i.e., where the AER sensibly applies a benchmark approach) because customers will be the direct beneficiaries of Marinus Link's lower cost finance. I concluded that this factor would justify a lower incentive rate for Marinus Link than an otherwise equivalent project. This argument does not appear to have been responded to by the AER."

Incenta makes the following comments in its overall assessment of the AER's proposed incentive rate:[18]

> "In my view, the AER's proposed incentive rate is substantially higher than what is likely to be the optimal rate during the construction of a project like Marinus Link. The incentive rate the AER has proposed is likely to generate outcomes that are adverse to the long term interests of customers, both in relation to how Marinus Link is delivered, as well as by setting a precedent for future ISP projects and adversely affecting investment"

MLPL concurs with Incenta's view that Ofgem's recent decision is more closely aligned with MLPL's proposal, as it recognises that large overspends should not be subject to further financial penalties. As noted earlier, applying penalties in circumstances where the TNSP is unable to respond does not have any meaningful incentive properties. In those circumstances, the verification that actual expenditure is prudent and efficient can only be undertaken through an ex post review, which the AER would be obligated to undertake in accordance with the Rules.

MLPL also agrees with Incenta's observation that concessional finance, which MLPL has obtained for the benefit of consumers, has the effect of amplifying the strength of the incentive rate in the CESS. Specifically, a 10% incentive rate in the CESS has a much greater impact on equity holders if concessional finance supports gearing of 80% rather than the benchmark 60%. For 80% gearing, 20% of any overspend amount is financed by equity holders, but it is equity holders that must bear the full impact of the 10% incentive rate, i.e. 50% of their equity contribution to the overspend amount.

In terms of a remedy to the issues raised by Incenta, MLPL considers that:

- the AER should also adopt Ofgem's approach, which Incenta considers provide a materially better incentive scheme; or
- apply the 70/30 incentive rate up to +/-5% and a 90/10 rate thereafter,

[18] Incenta Economic Consulting, CESS for Marinus Link construction – comment on the supplementary draft decision, December 2025, page 1.

MLPL notes that the latter approach would be more closely aligned with Ofgem's approach, which applies a 75/25 incentive rate for +/-5%, rather than 70/30 for +/- 10%. Most importantly, this alternative compromise position would appropriately recognise MLPL's unique circumstances, including the total absence of project diversity and the benefit of concessional finance that distinguishes MLPL from every other TNSP.

5. Pass through events

Key Points:

- MLPL proposed four pass through mechanisms, which have become a standard feature of recent revenue determinations. We also proposed a further four nominated pass through events: Unavoidable contract variations event; Contractor force majeure event; Contractor insolvency event; and Biodiversity event.
- The AER did not accept the four additional pass through events. In this submission, we have responded to the reasons presented by the AER and proposed a remedy for addressing the residual risks in each case.

5.1 MLPL's proposal

The Rules include cost pass through provisions that enable a TNSP to recover (or pass back to customers) materially higher (or lower) costs in providing prescribed transmission services if a 'pass through event' occurs. The purpose of the pass through provisions is to enable each TNSP to seek to recover the efficient costs associated with a particular event, but only if that event occurs. The use of pass through provisions is intended to keep transmission charges as low as possible because customers avoid paying transmission charges that include a risk allowance for events that may not occur.

Clause 6A.7.3(a1) of the Rules provides for the following pass through events:

- A regulatory change event;
- A service standard event;
- A tax change event;
- An insurance event; and
- An inertia shortfall event.

The Rules also allow each TNSP to nominate additional pass through events in its revenue proposal. In recent determinations, TNSPs have nominated the following events:

- Insurance coverage event;

- Terrorism event;
- Natural disaster event; and
- Insurer credit risk event.

In addition to proposing the nominated pass through events set out above, MLPL proposed the following additional nominated pass through events:

- Unavoidable contract variations event;
- Contractor force majeure event;
- Contractor insolvency event; and
- Biodiversity event.

The AER's Initial Draft Decision accepted the first group of four nominated pass through events set out above, but did not accept the second set. MLPL addressed the issues raised by the AER and resubmitted amended versions of these pass through events in MLPL's revised Revenue Proposal. MLPL explained each of the proposed nominated pass through events are warranted, having regard to the 'nominated pass through event considerations' as defined in Chapter 10 of the Rules.

5.2 AER's supplementary Draft Decision

In its supplementary Draft Decision, the AER did not accept the four re-submitted nominated pass through events. In the section below, for ease of reference we set out the AER's reasoning and our response to the arguments made:

- **Unavoidable Contract Variations Event**: The AER did not accept this proposed event because the AER concluded that changes in project design or route selection are within MLPL's control and should have been addressed during early works. The AER also commented that MLPL did not respond to its view that an allowance for early works had been provided to MLPL for the purposes of reducing project cost uncertainty. Specifically, the AER explained that early works are intended to provide more project cost certainty, including on project design and route selection.

  The AER also argued that a prudent service provider could reasonably prevent an Unavoidable Contract Variations event from occurring or substantially mitigate its cost impact. On that basis, the AER considered that accepting this pass through event would be inconsistent with the nominated pass through event considerations under the NER.

MLPL agrees that a pass through should not be permitted for matters that are within MLPL's control. For that reason, MLPL has defined the event as Unavoidable Contract Variations, i.e., only those variations that cannot be avoided would be permitted as a cost pass through. We also accept that early works reduces the risk of contract variations in relation to project design and route selection. This observation, however, points to the reduced probability of an unavoidable contract variation, but it does not eliminate that risk. MLPL considers it appropriate to provide a mechanism to recover unavoidable contract variations, even if the likelihood of occurrence is low. We also do not accept the AER's comments that an Unavoidable Contract Variation can be avoided or mitigated and, therefore, should not be accepted as a pass through. We note that our proposed definition included the following drafting, which addresses the concerns raised by the AER:

Note: In assessing an unavoidable contract variations event pass through application, the AER will have regard to, amongst other things:

i. Evidence that the contract variation has been caused by factors that were beyond MLPL's control;

ii. MLPL's attempts to mitigate and prevent the event from occurring;

iii. the prudency and efficiency of the contract amounts claimed by MLPL, including whether it accords with the terms and conditions of the relevant contract;

iv. the prudency and efficiency of any actual or forecast costs to be incurred by MLPL as a result of the event. [emphasis added]

- **Contractor Force Majeure Event**: The AER did not accept this proposed event on the grounds that the risks are already covered by other pass-through events (e.g., natural disaster) or should be managed through contractual arrangements.

  As previously noted in MLPL's revised Revenue Proposal, there is a difference between the negotiated definition of Contractor Force Majeure and the existing pass through provisions. MLPL therefore refers the AER to the material submitted in our revised Revenue Proposal on that issue. In relation to the AER's suggestion that MLPL should have or could have negotiated a different definition of Contractor Force Majeure, MLPL's position is that the contractual terms and conditions have been settled and there is no scope to amend the definition.

  Furthermore, there is no reason to suppose that seeking a narrower definition of Contractor Force Majeure would have been acceptable by prospective service providers. The AER has separately

concluded that the contracts were competitively procured through a robust tender process, which strongly implies that the AER is comfortable with the negotiated terms and conditions, including the definition of contractor force majeure.

- **Contractor Insolvency Event**: The AER did not accept this event because it believes that MLPL can mitigate this risk through due diligence, financial guarantees, and contractual terms.

  MLPL accepts that it has some control over contractor insolvency, but that some residual risk remains. The concerns raised by the AER have been addressed in our drafting as submitted in the revised Revenue Proposal, which is reproduced below:

  > Note: In assessing a contractor insolvency event pass through application, the AER will have regard to, amongst other things:
  >
  > i. Whether MLPL made reasonable enquiries at the time of contracting with the relevant service provider to verify its financial capacity to meet its contractual obligations;
  >
  > ii. Whether MLPL obtained reasonable protections against insolvency, including appropriate financial guarantees and novation provisions;
  >
  > iii. Any action or omission on the part of MLPL that may have resulted in costs that are not prudent and efficient; and
  >
  > iv. the prudency and efficiency of the costs claimed by MLPL.

  MLPL does not accept that there is zero residual risk in relation to contractor insolvency. On that basis, the risk needs to be accounted for either in a pass through event or an increased risk allowance.

- **Biodiversity Event**: The AER suggested that MLPL has already accounted for biodiversity offset costs in its capital expenditure proposal and risk allowance, and biodiversity obligations are unlikely to change after planning permits are approved.

  MLPL notes the AER's reasons, but does not accept that there is zero residual risk in relation to biodiversity costs. On that basis, the risk needs to be accounted for either in a pass through event or an increased risk allowance.

5.3 MLPL's response to the supplementary Draft Decision

For the reasons set out in the previous section, MLPL is proposing the following approach in response to the supplementary Draft Decision:

- **Unavoidable contract variations event**. MLPL is resubmitting this pass through event as presented in our revised Revenue Proposal. If the AER does not accept this event, an additional risk allowance has been calculated to account for the residual risk.
- **Contractor force majeure event.** MLPL is resubmitting this pass through event as presented in our revised Revenue Proposal. If the AER does not accept this event, an additional risk allowance has been calculated to account for the residual risk.
- **Contractor insolvency event.** MLPL is not resubmitting this pass through event. An additional risk allowance has been calculated to account for the residual risk.
- **Biodiversity event.** MLPL is not resubmitting this pass through event. An additional risk allowance has been calculated to account for the residual risk.

In our revised Revenue Proposal, MLPL foreshadowed that the risk allowance may need to be adjusted upwards if the pass through events were not accepted. This position recognises the practical reality that residual risks must be addressed either as a risk allowance or a pass through event. For the avoidance of doubt, whichever regulatory mechanism is adopted to recognise account for the above risks, MLPL has taken and will act prudently and efficiently to manage the residual risks.

The risk allowance for the biodiversity event and contractor insolvency event is described in more detail in a report from E3 Advisory which is provided as Attachment 2 to this submission. The E3 Advisory report also sets out the risk allowance that would be required for the contractor force majeure event and the unavoidable contractor variations event if the AER does not accept these pass through events in its Final Decision.