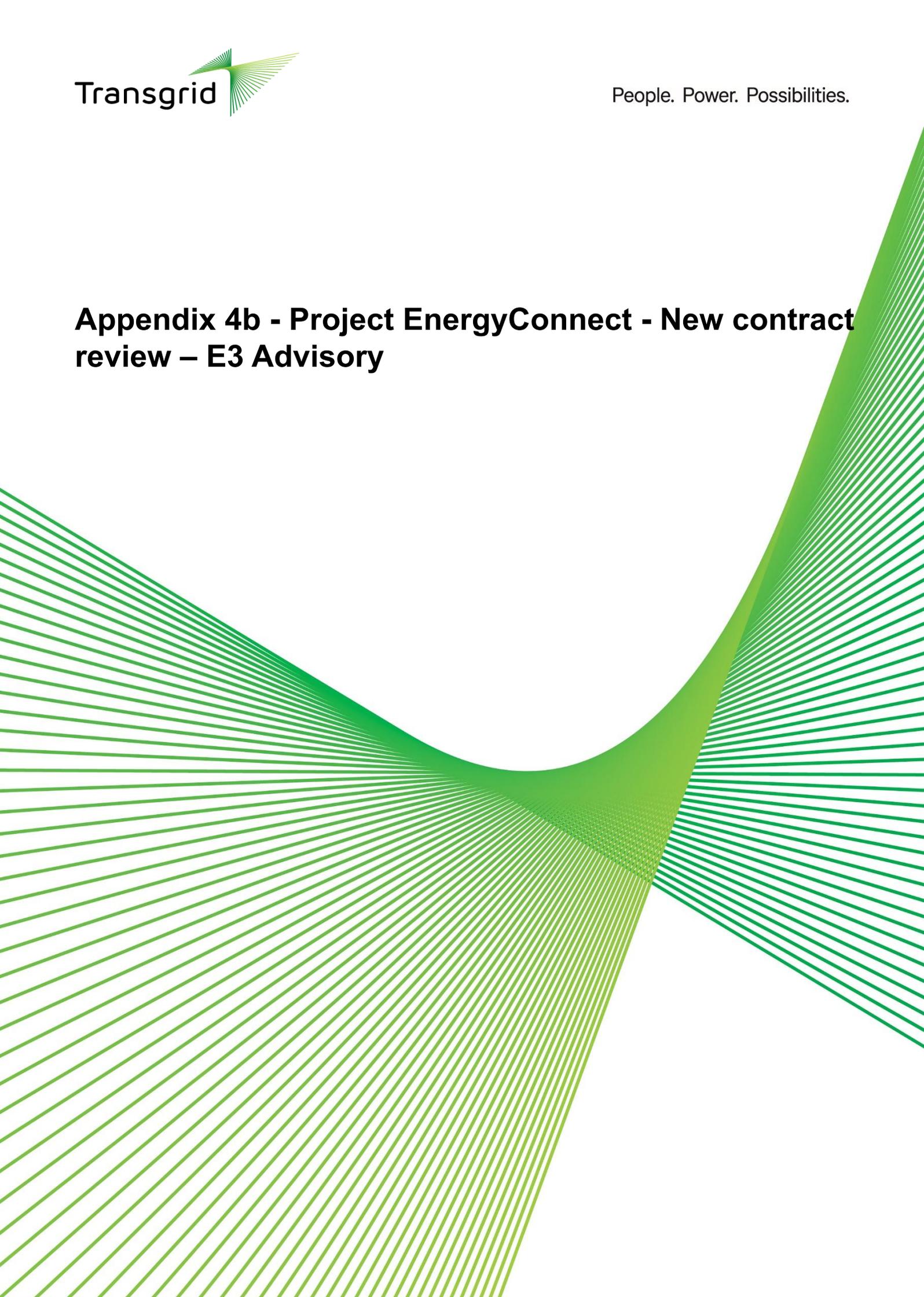


Appendix 4b - Project EnergyConnect - New contract review – E3 Advisory

A decorative graphic consisting of numerous thin, parallel green lines that curve and sweep across the bottom half of the page, creating a sense of motion and energy.

Project EnergyConnect New Contract Review Report

Date: 21 January 2026



E3 Advisory



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Executive Summary

Transgrid has advised that a contract failure occurred of the Engineering, Procurement, and Construction (EPC) contract with SEJV (a joint venture of Elecnor Australia and Clough Projects Australia Pty Ltd), for delivery of the New South Wales (NSW) portion of Project EnergyConnect.

Consequently, Transgrid examined a number of options to progress the delivery of the NSW portion of Project EnergyConnect. One such option was to negotiate a new Incentivised Completion Cost (ICC) Contract with Elecnor Australia and its parent company.

Transgrid has engaged E3 Advisory to provide an independent report that assesses the prudence and efficiency of:

- i) Transgrid's decision to establish a new contract with Elecnor Australia, Elecnor S.A. as guarantor; and Clough Projects Australia (Elecnor Australia will fulfill all Clough's obligations in accordance with the Contract)
- ii) those new contract terms and conditions.

E3 Advisory's review approach includes reference to factors that it considers contribute to the satisfaction of prudence and efficiency and is in part informed by the Australian Energy Regulator's (AER) relevant guidance material and determinations. The circumstances of the decision making and the negotiation of the new contract were informed by documentation review and interview of key staff.

The brief for E3 Advisory was to review the decisions made by Transgrid and did not include the preparation of its own independent cost and project schedule.

In summary E3 Advisory found:

- of the options available in the circumstances, Transgrid's decision to establish a new ICC Contract with Elecnor Australia, was prudent and efficient;
- the price and schedule of the new contract benchmarks reasonably with other relevant project data;
- the ICC Contract terms and conditions, in combination with the new price and schedule, are prudent and efficient.

The detailed findings are set out in this report.

1 Introduction

1.1 Context

Transgrid has advised it has experienced a contract failure of its project EnergyConnect (PEC) contract with Clough Projects Australia Pty Ltd and Green Light Contractors Pty Ltd, together, the Contractor and trading as the SecureEnergy joint venture (SEJV). Green Light Contractors Pty Ltd subsequently became Elecnor Australia Pty Ltd.

Following the contract failure, around October 2023, Transgrid undertook a suite of actions, including:

- i) undertaking proactive management to understand and support the continued performance by Elecnor of the PEC works
- ii) providing cashflow support in conjunction with parent company Elecnor S.A.
- iii) conducting alternative contractor market tendering
- iv) negotiating resolution options with Elecnor
- v) developing and assess options for the completion of the PEC works

Transgrid, supported by external advisors, undertook an extensive amount of work to develop options and provide robust inputs (including alternative contractor market tendering as well as select options development and negotiation with Elecnor). The options were assessed on key factors of: completion timing, network impact, final cost, cost recovery risk, disputes, design integrity, defects, warranty implications, timing for replacement contractors, and the impact on incremental net market benefits.

Management presented to the Board in October 2024, 8 options in relation to the PEC works, these were:

- Option 1: Friendly Descope - Agreement with Elecnor to descope the EPC Contract, deliver the balance of PEC works via an alternative contractor, with transition assistance from Elecnor to Transgrid, tenderers and an alternative contractor
- Option 2: Unfriendly descope - Unilateral decision of Transgrid to descope the Elecnor EPC Contract, deliver the balance of PEC works via an alternative contractor, with no transition assistance from Elecnor to Transgrid, tenderers or an alternative contractor
- Option 3: Litigation - Transgrid terminates the EPC Contract, commences proceedings for breach, enforces its rights under the Elecnor SA PCG, calls on Elecnor guarantees
- Option 4: New Contract Price and new Contract - Parties enter into a new contract, including a new price, for Elecnor to complete the PEC works
- Option 5: Status Quo - Transgrid and Elecnor S.A. continue to provide additional payments to continue the PEC works
- Option 6: Project Abandonment by Transgrid - Transgrid abandons PEC after completing Separable Portion 1 (SP1)
- Option 7: Alliance models with or acquisition of Elecnor - Transgrid and Elecnor form alliance to complete the PEC works
- Option 8: Transgrid Ceases Emergency payments and enforces the existing EPC Contract

Management recommended, and the Board approved, Option 4, an ICC Contract with an ICC Contract Price.

This report reviews Transgrid’s decision to establish new contract terms and conditions with Elecnor Australia; and those new contract terms and conditions.

1.2 E3 Advisory’s Brief

Transgrid has engaged E3 Advisory to provide an independent report that assesses the prudence and efficiency of:

- i) Transgrid’s decision to establish new contract terms and conditions with Elecnor Australia; and
- ii) those new contract terms and conditions.

1.2.1 Assumptions and Exclusions

The review by E3 Advisory is limited to the matters related to the contracts with Elecnor.

E3 Advisory has relied upon the information provided by Transgrid.

Excluded from the review are the following matters:

- i) Development of an independent cost and project schedule
- ii) Transgrid’s estimates of its project management, specialist resources and risk-cost allowances
- iii) Confirming the circumstances or timing of the event of the EPC Contract failure.
- iv) The governance and management prior to EPC contract failure

1.3 Assessment Approach

E3 Advisory’s approach to assessing:

- i) the prudence and efficiency of the decision to establish new contract terms and
- ii) the prudence and efficiency of those terms and conditions

was to consider what factors might contribute to satisfaction of prudence and efficiency, including factors informed by the AER’s guidance materials and determination. The relevant factors are presented in Table 1.

Table 1 Assessment factors and structure of prudence and efficiency

Prudence and Efficiency Factor – Decision Making
<ul style="list-style-type: none">• Decision Governance• Decision Timing• Risk Management• Scope and Change control• Project delivery model and Contractual Arrangements• Lessons• Contract Price• Delivery Timing• Risks, uncertainty and mitigation
Prudence and Efficiency Factors – Contract Terms and Conditions
<ul style="list-style-type: none">• Contract Governance• Delivery Timing• Risk Management

Appendix A provides the methodology for this review.

1.4 Summary of Findings

In summary E3 Advisory found:

- of the options available in the circumstances, Transgrid's decision to establish a new ICC Contract with Elecnor Australia, was prudent and efficient;
- the price and schedule of the new contract benchmarks reasonably with other relevant project data; and
- the ICC Contract terms and conditions, in combination with the new price and schedule, are prudent and efficient.

The findings set out in this report are collated out below.

Decision Review

F1: The governance arrangements for the EPC Contract, post the contract failure, were appropriate for the nature and scale of Project EnergyConnect

F2: The options considered by the Board were appropriate to the changing circumstances

F3: It was prudent and efficient of Transgrid's management to maintain a focus on the progress of the Contract works whilst resolution options were being explored

F4 The period from the contract failure until the Board's decision to establish the ICC Contract was reasonable given the changing circumstances

F5: Transgrid actively managed the risks post contract failure and considered the risks of each option

F6: Transgrid was prudent in considering at various stages, the de-scoping of the EPC Contract for delivery by other means

F7: Transgrid was prudent and efficient to retain aspects of the commercial structure of the EPC Contract when negotiating the ICC Contract

F8: Transgrid considered lessons from other projects in determining the basis for the ICC Contract

F10: The assessment by Transgrid of Offer E from Elecnor, applying two separate approaches, was reasonable in the circumstances despite some minor limitations

F10.1 Transgrid relies upon its contractual audit rights to retrospectively review and validate Elecnor's reported costs, and secured Elecnor's parent company contributions to emergency relief payments in preference to a detailed assessment of Elecnor's costs to date and the underlying causes of additional costs

F10.2 Forecast performance and the estimate of forecast direct costs for the ICC Contract Price was assessed by Transgrid against historic SEJV unit productivities

F10.3 The assessment of the forecast indirect costs for the ICC Contract Price benchmarked reasonably with expected outcomes

F10.4 The basis of the risk and contingency provision included in Elecnor's Offer E was sufficiently analysed in combination with securing favourable commercial terms and conditions

F10.5 The assessments by Transgrid for escalation considered the appropriateness of the quantum and make-up of escalation applied in Elecnor's forecast

F10.6 Exclusion of profit from the ICC Contract Price was a key benefit compared to an alternative contractor option

F11. Transgrid's schedule assessment approach was reasonable and was informed by an independent view

F12: It was prudent of Transgrid to progress a market tender process for an alternative contractor, the outcome of which provided an efficiency basis for option assessment

New Contract Terms and Conditions Review

F13: Transgrid was prudent in negotiating a profit share mechanism on an open book basis, which incentivised the contractor on achieving efficient cost outcomes

F14: The ICC Contract completion dates were appropriate in the context of the other contract mechanisms

F15: Transgrid was prudent and efficient in securing and revising the delay damages mechanism whilst resetting the completion dates, focussing the Contractor on an efficient schedule delivery

F16: Transgrid was prudent and efficient in applying an abatement mechanism to Programme Milestone Dates, focussing the Contractor on an efficient schedule delivery

F17: Transgrid was prudent in negotiating a \$400m escrow account with the Guarantor to enable efficient claw back in the event of Contractor performance failure

F18: Transgrid was prudent in negotiating an efficient performance KPI regime related to Transgrid's objectives

F19: Transgrid was prudent in establishing a Project Trust Account to provide a secure and transparent account for contract payments solely for the Project

F20: Transgrid was prudent in negotiating payment of damages for late Separable Portion SP1

F22: Transgrid was prudent to negotiate replacement securities commensurate with the ICC Contract Price and consistent with market

F23: Transgrid was prudent to negotiate liability caps commensurate with the ICC Contract Price and consistent with market

F24: Transgrid was prudent and efficient in enhancing contract governance and Elecnor's leadership capacity and capability

F25: Transgrid was prudent and efficient in defining an active client role with specific rights which increase Transgrid's control of project management

F26: Transgrid was prudent and efficient, given the remaining scope of the works, to negotiate removal of Provisional Sums

F27: Transgrid was prudent in expanding its rights of termination

F28: Transgrid was prudent in negotiating a narrower definition of Change in Law

2 Decision Review

2.1 Decision Governance

Finding F1: The governance arrangements for the EPC Contract, post the contract failure, were appropriate for the nature and scale of Project EnergyConnect

Commentary

The project governance arrangements were supplemented in June 2023 when a special taskforce was established by the Major Projects team to be chaired by the then GM Origination to prepare for further deterioration in SEJV performance, analyse alternate plans or a full reset if required.

Transgrid evolved its governance structure over time as multiple major projects became part of the business.

Transgrid's governance structure, related to the management of major projects, is in two workstreams being i) project reporting and review workstream which is specific for major projects and ii) a decision making workstream which covers all business within the Transgrid Group.

The major projects specific workstream consists of:

- The Project Control Group (PCG) reviews all aspects of the project and is the project team reporting to the project director on the performance of their respective functions. All parts of the project, including functions from the matrix structure attend this meeting.
- Monthly Major Projects Review (MMPR) reviews emerging risks, approaching decision points, issues for escalation, major impacts on Cost, time and quality, change control and discuss endorsement of Major Project Oversight Group (MPOG) papers and reports. The MMPR is to promote robust debate, seek peer input and facilitate considered decision making, within the sphere of Major Projects. Attendance of this meeting is direct reports to the EGM Major Projects.
- Major Projects Oversight Group (MPOG) is an executive committee established to support the Transgrid Board and management with their oversight and strategy roles. The MPOG provides both executive and independent oversight, and assurance of successful and safe delivery, of the full life cycle of Transgrid Group Class A Major Projects (being projects above \$500m with high complexity and high corporate risk rating)

The Transgrid Group workstream consist of:

- The Contracts Review Committee (CRC) is an executive committee established to regularly support the ELT with an ongoing and collaborative discussion forum, which facilitates decision making support and the alignment of. ELT and Management ahead of key decision milestones required for MPOG and Investment Review Committee (IRC) meetings. The CRC ensures that contracts and variations to contracts that trigger the threshold for review by the CRC are thoroughly assessed, compliant, and aligned with the company's strategic objectives.
- The Investment Review Committee (IRC) is an executive committee established by the Chief Financial Officer. The primary function of the Committee is to support to the Chief Executive Officer in exercising their delegated authority, as established from time to time by the Board, and making recommendations to the Board in respect of investment activity within the Transgrid Group.

- The Executive leadership Team is established by the CEO and it oversees the operational performance of the Transgrid Group including oversight of Major Projects.

Finding F2: The options considered by the Board were appropriate to the changing circumstances

Commentary

E3 Advisory reviewed the options in response to the EPC contract failure along with the supporting documentation as well the Board papers and minutes and makes the following observations;

- (a) In considering the options presented by Management, the Board was provided with appropriate external advice from [REDACTED] regulatory, insolvency and commercial advisors
- (b) The quality of Board papers and supporting documentation was commensurate with the significance of the issues to be decided; and
- (c) The Board was provided regular updates and option recommendations from Management in response to the circumstances.

Finding F3: It was prudent and efficient of Transgrid's management to maintain a focus on the progress of the Contract works whilst resolution options were being explored

Commentary

Transgrid's management undertook a proactive approach to mitigate performance risk of Elecnor, including:

- (a) Transgrid provided cashflow support, complemented by parent company contributions, ensuring payments were secured against materials and payments were being made transparently to subcontractors
- (b) Transgrid facilitated discussions between Elecnor and, separately, Downer and Genus to explore their potential engagement as subcontractors. By March 2024, both Downer and Genus were engaged by Elecnor
- (c) Transgrid maintained a focus and discussed opportunities regards Elecnor's resourcing and supervision, management
- (d) Transgrid met regularly with Elecnor to understand Elecnor's schedule for the works
- (e) Transgrid enhanced its internal capabilities and by mid-2023, including onboarding more internal employees
- (f) Transgrid also secured, against the risk of contractor failure or change:
 - a lease for the Deniliquin lay-down yard where equipment was stored so that Transgrid could access plant, equipment and materials
 - all intellectual property including design drawings; and
 - novation of key subcontracts.

2.2 Decision Timing

Finding F4: The period from the contract failure until the Board's decision to establish the ICC Contract was reasonable given the changing circumstances

Observation F4-O1: There was an extended period when the parties' considered options, maintained project delivery through cash relief, progressed Transgrid's alternative contractor procurement and continued option negotiations with Elecnor, until the Board's decision to establish the ICC Contract

Commentary

E3 Advisory, from the documentation provided, developed a chronology from March 2023, of the EPC Contract and options related events and activities, and these are summarised in the following periods:

- (a) from March to October 2023 there was a focus by the parties for resolution of claims referred to as "Group A" claims and an inability by Elecnor to articulate and substantiate its other potential claims
- (b) Transgrid was forming its own view from June to October 2024, independent of the contractor's proposals, of a forecast of time and cost to complete
- (c) a period from April 2023 to July 2024 where the risk of Elecnor Australia's insolvency appeared, to Transgrid, to be material, with Transgrid monitoring SEJV's deteriorating financial position following withdrawal of Elecnor S.A. financial backing in April 2023. By October 2023 Elecnor required emergency funding to meet immediate obligations, and thereafter Transgrid and Elecnor S.A. providing cashflow support until November 2024
- (d) periods, from March to July 2024, when Transgrid was seeking commitment from Elecnor S.A. to complete some or all of the EPC Contract
- (e) a period from May to August 2024 where Transgrid was exploring an alternative contractor for some or all of the EPC Contract scope of works
- (f) offers from Elecnor, on 16 July 2024, including Offer E, a reset of the full scope of the EPC Contract and Offer B, a full descope except SP1 and S1b
- (g) a period from July 2024 to November 2024 for the assessment and negotiation by Transgrid of, initially Offer B and Offer E, and then a focus on Offer E, a reset of the full scope of the EPC Contract.

These periods are illustrated in Figure 1.

Figure 1 Contract Options Decision Timeline



Observation F4-O2: By August 2024, Transgrid had sufficient analysis that identified that a later completion date of the PEC works would result in diminished incremental net market benefits.

Commentary

Transgrid required several inputs of sufficient veracity to make its final analysis of options to enable Management to make a recommendation to the Board as to a preferred option.

The key inputs included:

- Adequate contractor market pricing and indicative schedules to assess delivery by an alternative contractor
- Sufficient confidence in Elecnor S.A.’s commitment to complete the PEC works and confidence in the cost to complete and schedule to complete that would form the basis for any new contract
- Assessment of reliability and security impacts for different PEC completion timings which were key inputs to the Net Market Benefits analysis
- Net Market Benefits analysis

By October 2024 that Transgrid management had sufficiently robust inputs to enable it to finalise its options analysis to make a recommendation to the Board.

Observation F4-O3: From July 2024, Transgrid was able to expedite the assessment of Elecnor’s Offer E and the new contract negotiations

Commentary

From late July 2024, there was a significant increase in the parties’ negotiations to explore a new contract in lieu of the EPC Contract following Elecnor’s proposals of 16 July 2024 and Transgrid’s expressed preference to shortlist to the 2 options of Offer E, an alternative approach to the EPC Contract and Offer B, a full descope except SP1 and S1b. By late October, Transgrid Management were able to finalise options analysis and make a recommendation to the Board of Option 4 – New Contract with fixed price with Elecnor.

2.5 Delivery model and Contractual Arrangements

Finding F7: Transgrid was prudent and efficient to retain aspects of the commercial structure of the EPC Contract when negotiating the ICC Contract

Commentary

E3 Advisory identified that Transgrid appropriately considered a number of contract models as option for completion of the PEC works, including

- (a) The ICC Contract based upon the FIDIC form of contract
- (b) The compensation framework is based on a fixed price but with material protections for Transgrid from project costs overruns and poor performance, greater contractual protections, incentives that balances gain and pain share, and maintains a delay damages regime

2.6 Lessons

Finding F8: Transgrid considered lessons from other projects in determining the basis for the ICC Contract

Commentary

E3 Advisory, based on its infrastructure market experience and the documentation, observed that:

- (a) Transgrid was actively applying lessons from PEC and other projects, including regarding contractor capability, leadership, programme risk, inspection of accounts and audits, cost control, and progress reports. Many of these requirements are incorporated within the ICC Contract.

2.7 Contract Price

Finding F10: The assessment by Transgrid of Offer E from Elecnor, applying two separate approaches, was reasonable in the circumstances despite some minor limitations

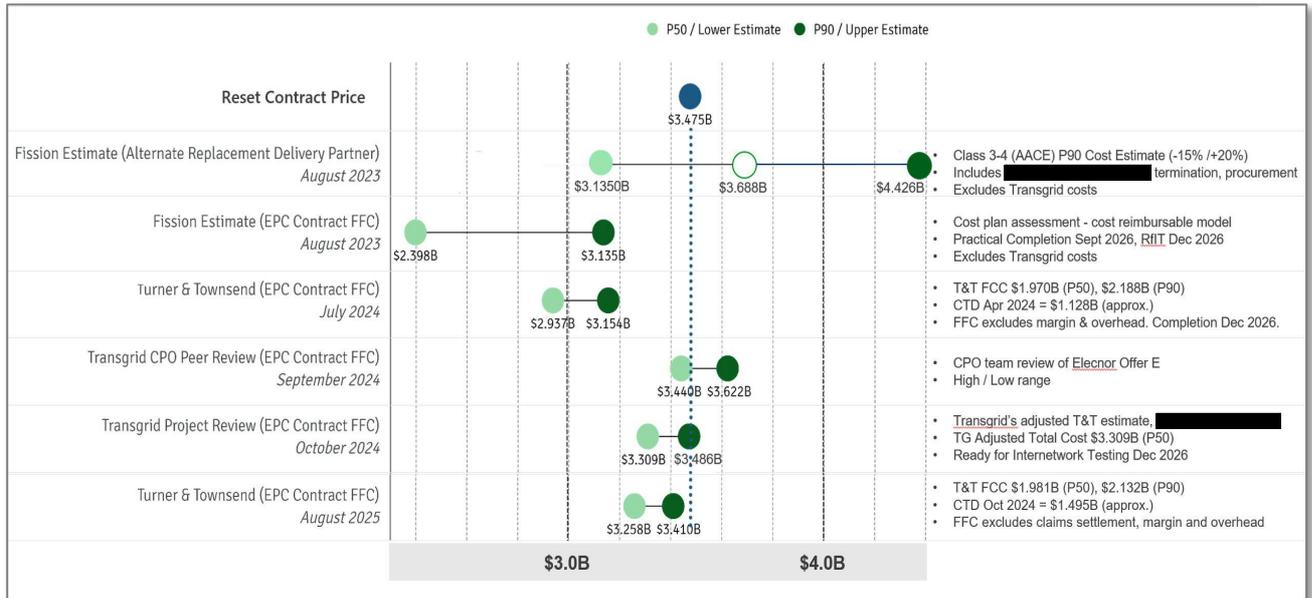
Commentary

In summary:

- (a) Transgrid's assessment of Offer E from Elecnor applied two distinct approaches to evaluate cost and delivery certainty within the six-week negotiation window. The approaches taken together were reasonable in the circumstances and sufficient analysis of Elecnor's offer by elemental review (i.e. by CPO Peer Review Team) and via an independent cost estimate (i.e. Turner & Townsend (T&T) report updated by Project Review Team).
- (b) Given Elecnor's December timeline for acceptance of Offer E and the imperative to realise network benefits through the earliest possible completion, Transgrid adopted a prudent approach by requiring within the new contract terms the right to open-book access to validate Elecnor's costs via audit rights and the profit share arrangements, rather than extending negotiations. In circumstances where productivity is at risk from Elecnor's funding issues and uncertainty regarding the final terms of the negotiated outcome, the value in extending negotiations to further analyse costs appeared marginal. Audit rights and profit share are considered an efficient alternative to pursuing closure of information gaps in Elecnor's Offer E.

- (c) Concurrent with its negotiations with Elecnor, Transgrid undertook market testing of an alternative contractor delivery option. This process confirmed that replacing Elecnor would incur a substantially higher cost and an extended delivery timeframe. In view of these circumstances, Transgrid remained committed to deriving best value through its negotiations with Elecnor, both in terms of contract pricing and commercial terms.
- (d) Transgrid achieved exclusion of profit from the ICC Contract Price and favourable mitigating contract terms in its negotiations with Elecnor including audit rights, incentivised escrow account protections with performance milestones and key performance Indicators (KPI) penalties, incentivised profit share, and upfront payment of damages which offset against Elecnor's Offer E price and support in securing performance. The increased risk transfer to Elecnor negotiated also extended to refining Practical Completion to include Readiness for Tests for Energisation, maintaining the delay damages mechanism whilst resetting completion dates, increasing Bank Guarantees, a liability cap of [REDACTED] of the ICC Contract Price, conversion of provisional sums to fixed lump sum, and narrowing the Change in Law definition.
- (e) The ICC Contract terms also mitigate any impact to Transgrid if cost or schedule forecasts in Offer E ultimately prove to be overly conservative, ensuring the price paid accurately reflects actual costs.
- (f) Several external data points were available to Transgrid to inform the cost to complete, as detailed below. These data points are shown chronologically in Figure 2, converted for comparison purposes to forecast final cost estimates, and clustered in the \$3.0B to \$4.0B range.
- In August 2023 Fission prepared a Class 3-4 (AACE) outturn cost estimate of \$4.9B for a replacement D&C delivery partner under a shared risk framework, an alternate option to renegotiating the EPC contract. Excluding Transgrid's owner costs, the (P90) EPC Contract FFC component inclusive of termination and procurement costs was \$3.7B.
 - In August 2023 Fission prepared an assessment of Transgrid's cost plan for SEJV to continue to deliver the project through a cost reimbursable delivery model, with an EPC contract final forecast cost of \$3.1B for Practical Completion in September 2026 [REDACTED]. Fission also provided comparative benchmarking of Transgrid and Powerlink projects.
 - In July 2024 Turner & Townsend prepared an independent forecast cost to complete of \$2.0B (P50 risk adjusted) for the remaining EPC contract scope of work from May 2024.
 - In September 2024 Transgrid CPO Peer Review Team's analysis of Elecnor's Offer E reported a forecast final cost in the range \$3.4B to \$3.6B.
 - In October 2024 Transgrid's Project Review Team refined T&T's July 2024 estimate in a Transgrid Adjusted Total Cost of \$3.3B (P50) [REDACTED].
 - Subsequently after the new ICC Contract was established, in April 2025 KPMG prepared a project level 'cost/km' benchmarking comparison against other Transgrid and global projects.
 - In August 2025 Turner & Townsend reported an updated forecast of \$2.0B (P70 risk adjusted) to complete the remaining EPC contract scope from October 2024 [REDACTED] considering changes in the market and contemporary transmission industry outcomes.

Figure 2 Comparative data points for the ICC Contract Forecast Final Cost



- (g) In the context of sole contractor negotiations, increased risk transfer to Elecnor achieved under the ICC Contract terms, exclusion of profit from Elecnor's Offer E, [redacted] the remaining variance in FFC between Offer E and Transgrid's (P50) Adjusted Total Cost Estimate is \$140m (or 4%). Falling within Transgrid's contingency range P50 to P90 this variance is considered non-material and is considered both a reasonable outcome and an indicator of reasonable value in the offer price.
- (h) In Board Paper 31 October 2024 and Board Minutes 7 November 2024 under discussion of Option 4 value to consumers, Transgrid reported its assessment of Elecnor's proposed fixed price as comparable to Transgrid's forecast final cost estimate. As the lowest cost option and with optimal net market benefits, Option 4 was reported the best value option for consumers. This is considered a reasonable outcome of Transgrid's analysis. Additional contractual protections such as the profit share mechanism and audit rights of Elecnor's costs on an "Open Book basis" also ensures the Offer Price reflects underlying costs, providing a mechanism to pay only genuine project costs up to the ICC Contract Price.

The basis of the above observations is detailed in the next sections.

2.7.1 Costs to Date

Finding F10.1 Transgrid relies upon its contractual audit rights to retrospectively review and validate Elecnor's reported costs, and secured Elecnor's parent company contributions to emergency relief payments in preference to a detailed assessment of Elecnor's costs to date and the underlying causes of additional costs

Commentary

- (a) Transgrid focussed on examining forecast costs to complete, analysing Elecnor's productivity achieved and projected to demonstrate certainty of delivery, with costs to date to be assessed via future audit. Elecnor reported costs to date of \$1,388m to July 2024 against a Transgrid certified payments total of \$1,286m (Payment Statement #55) indicating a cost variance of \$102m. Transgrid

negotiated contractual audit rights as a mechanism to retrospectively review and validate all of Elecnor's costs, in preference to examining underperformance, defects, safety issues or other contractor-related causes of cost increases.

- (b) Transgrid prioritised its comparative analysis of net market benefits for the eight options for PEC presented to the Board in October 2024 to support decision making as a reasonable alternative to reviewing Elecnor's costs to date. Elecnor's Offer E (Option 4) was identified as the option with highest incremental net market benefit and lowest cost. With net benefits for the network dependent on earliest possible completion and the assessment timeframe compressed by Elecnor Australia's capacity to continue the works under prolonged negotiations, Transgrid focused on the forward-looking aspects of the new contract and benefit to consumers rather than conducting a detailed review of past cost overruns and their attribution. Given Transgrid could rely on its contractual audit rights and the profit share mechanism, this is considered an efficient alternative.
- (c) Transgrid prudently negotiated contractual safeguards, including audit rights to examine and validate all Elecnor's expenditure on an open-book basis (including prior to the new contract) via the profit-sharing arrangements. Additionally, Transgrid independently verified monthly subcontractor and supplier costs during the Advanced Payment Deed and cash relief periods preceding the new contract. Transgrid also ensured Elecnor SA contributed to emergency relief payments to Elecnor Australia prior to executing the ICC Contract.
- (d) This cost validation period preceding new contract is acknowledged as affording Transgrid some visibility and understanding of Elecnor's expenditure patterns ahead of receiving Elecnor's Offer E. The profit share mechanism ensures any profit derived from underspend by Elecnor is shared back to Transgrid and consumers, triggered when underspend is more than 10% (approximately) below the ICC Contract Price

2.7.2 Forecast of Direct Costs

Finding F10.2 Forecast performance and the estimate of forecast direct costs for the ICC Contract Price was assessed by Transgrid against historic SEJV unit productivities

Commentary

- (a) The CPO Peer Review Team's assessment adopted Elecnor's estimates as the basis for the forecast of direct costs based on historical productivity and with some reference to actual costs. The CPO's assessment acknowledged material improvement in the quality of Elecnor's forecast cost to complete (FCTC) build-up and documentation in Offer E compared to the earlier 2023 submissions, and engaging with Elecnor in clarification sessions improved Transgrid's confidence in the underlying assumptions and processes in the FCTC. This was in the context of Elecnor's forecast final cost (FFC) increasing significantly, in the order of \$500m, since November 2023 and scheduled completion slipping by nine months.
- (b) Forecast performance and expected performance was assessed against historic SEJV unit productivities with Line 2 towers and stringing benchmarked against Line 1, and substations S2 and S3 referencing substation S1 performance. There were, at the time, few 500kV mega-projects previously completed to provide benchmarking, and no comparable Australian 500kV productivity was available to the CPO team for Line 5. The assessment increased the risk provision to de-risk L2

and L5 productivity, allowing for additional subcontract crews at higher cost, and substations de-risked against performance of specialist equipment and outage availability. In the absence of broad subcontract fixed pricing being in place, Transgrid's review teams verified application of committed costs in SEJV's existing subcontracts via a review of subcontract day rates used in Elecnor's forecast. Transparency of Elecnor's subcontractor costs was enhanced by the novation of key subcontracts to Transgrid. Detailed review of those novated subcontracts against Elecnor's forecast of subcontracts remaining to be let (e.g. civils and tower erection) was not evidenced.

- (c) This approach by Transgrid is considered reasonable in the circumstances where much of the project control data was unavailable from JV partner Clough Australia after entering voluntary administration, [REDACTED]
- (d) Transgrid had an informed view of the likely project cost from earlier analysis and benchmarking in 2023 with Fission assessing Transgrid's cost plan for a cost reimbursable delivery model, applying comparative benchmarking from three Transgrid and Powerlink 220/330/500kV projects indicating PEC was lowest cost/km on a Total Outturn Cost basis. Also, in 2023 Fission was engaged to prepare an outturn cost estimate for a replacement delivery partner model, adopting a combination of benchmarking data and first principles estimating. Further comparative cost data was available to Transgrid in July 2024 from Turner & Townsend's independent bottom-up estimate to complete the contract works, with rates benchmarked against projects of similar scope and size.
- (e) Transgrid's assessment of Elecnor's Offer E and the Board decision to execute the ICC Contract was informed by the work completed by Fission (from Aug 2023), Turner and Townsend (2024), Transgrid's Project Review Team evaluation of the T&T assumptions, and Transgrid's CPO Peer Review Team assessment of Elecnor's FFC (2024). The price agreed with Elecnor also included an offset of \$116m.
- (f) Subsequently in April 2025 KPMG prepared a project level 'cost/km' comparison against other Transgrid and global projects. This report supports Transgrid's assessment, indicating Line 2 and Line 5 project costs per km compare favourably with available cost data for 330kV and 500kV Transmission Lines, and the Dinawan substation cost also compares favourably when normalised (i.e. excluding synchronous condensers and switching station).
- (g) In August 2025 T&T prepared an updated forecast of \$2.0B (P70 risk adjusted) to complete the work remaining from October 2024, considering changes in the market and contemporary transmission industry outcomes.
- (h) Collectively these assessments and updated analysis by T&T confirm the ICC Contract Price accepted by Transgrid compares favourably with industry benchmarking.

2.7.3 Forecast of Indirect Costs

Finding F10.3 The assessment of the forecast indirect costs for the ICC Contract Price benchmarked reasonably with expected outcomes

Commentary

- (a) The CPO Peer Review Team's approach to the assessment of the forecast indirect costs for the ICC Contract Price costs reasonably adopted Elecnor's estimates and existing staffing as the basis for the forecast of some indirect costs (e.g. camp costs). The assessment validated Elecnor's existing staffing levels as critical for effective execution, enhanced management and project oversight, appropriately referencing the project scale and its remote location logistics and the increased levels of supervision to manage an immature remote-area supply chain for large-scale works.
- (b) Separate benchmarking as part of the assessment of staff costs in Transgrid's Adjusted TCE (Total Cost Estimate) concluded staffing was suitable despite being outside the benchmark range (27%-41% of direct costs) provided by T&T. Transgrid prudently increased the quantum of staff from T&T's estimate and aligned staffing to schedule milestones, including a significant increase in commissioning resources, considered appropriate for the ICC Contract terms converting commissioning support services to fixed pricing.
- (c) Overall, Elecnor's indirect costs (excluding design and camp costs) at 33% of direct costs are within the range of 31%-43% assessed by Transgrid in the CPO review and Adjusted TCE forecasts. Elecnor's indirect costs at the lower end of Transgrid's range, appear reasonable, appropriate and efficient for managing direct costs.
- (d) Reference to applying SEJV historical actual subcontract costs and the subcontracts in place for indirects was limited to day rates in the absence of fixed price subcontracts. Similar to the approach taken with direct costs, Transgrid's review teams verified application of committed costs in SEJV's existing subcontracts in their review of subcontract day rates used in Elecnor's indirect cost forecast.

2.7.4 Forecast of Risk

Finding F10.4 The basis of the risk and contingency provision included in Elecnor's Offer E was sufficiently analysed in combination with securing favourable commercial terms and conditions

Commentary

- (a) Although presented as a monte-carlo probabilistic assessment, Elecnor's risk model adopted a P70 risk probability applied deterministically (i.e. not derived probabilistically) as confirmed in the accompanying model spreadsheet. The likely consequence of a deterministic approach is to derive an outcome that understates risk variability and uncertainty with a confidence level less than P70.
- (b) Transgrid's assessment of risk and contingency provision in Offer E adopted alternate approaches:
 - (i) the Project Review Team reviewed the inputs of the T&T model and re-ran a probabilistic analysis with reasonable adjustments to reflect known project risks. Transgrid's assessed risk quantum ranged from [REDACTED] (P50) to [REDACTED] (P90) of FCTC. The comparable risk percentage in Elecnor's Offer E was [REDACTED] of FCTC, i.e. near the upper end of Transgrid's range. With consideration for schedule variance the Project Review Team assessed a P50 risk adjusted forecast final cost within a range from best case (\$3.20B) to a pessimistic three month prolongation scenario (\$3.47B). The P90 FFC outcome was \$3.49B [REDACTED] [REDACTED] this assessment by Transgrid supports and validates Elecnor's Offer E

forecast final cost which is noted as falling at the midpoint of the Project Review Team's risk adjusted range.

- (ii) the CPO's team review of risk was more high level and reasonably targeted productivity, market constraints and wet weather risk adjustments in lieu of a probabilistic analysis, in the context of Elecnor's productivity measures having been historically unreliable or unavailable and 500kV line production being untested. The CPO team assessed a 2 to 4 month risk to schedule completion, although without a quantitative schedule risk assessment (QSRA) to test completion due to critical path scheduling errors in Elecnor's program. No direct corresponding risk provision by Transgrid or Elecnor was evidenced for the cost of the delay risk. Transgrid was confident in achieving program milestones with the risk provision available for additional crews to maintain production, and assessed that the risk quantum, after increasing it by [REDACTED], was prudent for market conditions. The overall risk quantum assessed in the CPO's team review ranged from 20% (Low) to 30% (High) of FCTC, marginally higher than the Project Review Team's risk range.
- (c) The ICC Contract Price risk provision of 24% of direct plus indirect costs to complete, falls within CPO's assessed range of 20% - 30% of FCTC [REDACTED]. Transgrid consider the risk outcome was approximately a P50 confidence level based on all identified risks, which is broadly consistent with the Project Review Team's probabilistic analysis. The impact on Transgrid, in the event of performance risk issues with Elecnor, is mitigated by the contract recourse to \$400m within the Incentive Escrow Account available to Transgrid at its sole discretion.
- (d) Transgrid was committed to deriving best value from its negotiations with Elecnor on price and contract terms. In the context of sole contractor negotiations, performance risk was prudently mitigated by Transgrid with inclusion of the Incentive Escrow Account protections, audit rights, incentivised profit share, KPIs, and upfront payment of damages as part of the ICC Contract.
- (e) In parallel with its negotiations with Elecnor, Transgrid had market tested an alternative contractor delivery option and confirmed a significantly higher risk and time premium to replace Elecnor. Transgrid's options analysis confirmed its 'unfriendly' de-scope model with an alternative contractor resulted in incremental net market cost (as opposed to benefit) and delays in excess of one year.

2.7.5 Forecast of Escalation

Finding F10.5 The assessments by Transgrid for escalation considered the appropriateness of the quantum and make-up of escalation applied in Elecnor's forecast.

Commentary

- (a) Noting that Elecnor bears the risk of escalation under the contract, Transgrid reviewed provision for forecast escalation as follows:
 - (i) The CPO's review of Offer E prudently identified some cost escalation within Elecnor's risk adjustments including 5% uplift on materials and additional hyper escalation allowance and assessed a further increase in escalation on materials [REDACTED]. An overall escalation adjustment

was not reported by Elecnor, leaving determination of Elecnor's project-wide escalation rate assumptions uncertain in the CPO review.

- (b) "Transgrid's Adjusted TCE review considered an adjustment for cost escalation, adopting the T&T economics team's indicative escalation rate of 4.5% per annum (aggregated to 6% over the program duration) on all direct and indirect costs. T&T's updated estimate in August 2025 adopted a lower aggregated escalation output of 4.65%, which equates to a \$23m difference in the total costs. This difference is not considered material in the context of the total forecast cost to complete.
- (c) Consideration for the reset of existing subcontracts with escalation adjustments as a consequence of prolongation of SP2 completion was not evident in Transgrid's CPO review. Transgrid advised it resolved this issue via clarification sessions, with Elecnor deferring reset of existing subcontracts until negotiations were concluded and provisioning for the adjustment in its Offer E price.
- (d) It was reasonable for Transgrid to expect provision for escalation to be included within Elecnor's forecast of direct and indirect costs based on the EPC risk profile. Equally it was reasonable for Transgrid to determine for assessment purposes an appropriate quantum for escalation risk within the FCTC.

2.7.6 Corporate Overhead and Profit

Finding F10.6 Exclusion of profit from the ICC Contract Price was a key benefit over an alternative contractor option

Commentary

- (a) Transgrid's assessments confirmed Elecnor had excluded profit from their forecast costs 'for commercial agreement' as stated in Offer E. Separately Transgrid was prudent in negotiating a 50/50 profit share mechanism in the ICC Contract in the event of underspend of the ICC Contract Price by Elecnor above \$50m, designed to prevent windfall profit by Elecnor.
- (b) In considering Elecnor's Offer E against Transgrid's P50 Adjusted TCE assessment, the Board Paper November 2024 identified an apparent \$300m–\$400m variance as inclusion of profit, overheads [REDACTED] Upon review, after adjusting Transgrid's TCE for [REDACTED] emergency relief payments of \$71m and nil profit, the variance reduces to \$140m (or 4% of Transgrid's FFC) and falls within Transgrid's P50 to P90 contingency range. It is also of note that Transgrid's Adjusted TCE was not prepared on the same basis as the Elecnor Offer (i.e. a P70 fixed price EPC) and assumed a lower P50 confidence level for risk as most appropriate. In the context of sole contractor negotiations, nil payment of profit and the increased risk transferred to Elecnor under the ICC Contract terms this variance is considered non-material and an indicator of reasonable value in the offer price.
- (c) Importantly the option of an alternative contractor under a new contract was assessed as attracting a premium for overhead and profit and additional risk allowance for taking over the works from Elecnor and was demonstrated as part of the outcomes of the tender process. Transgrid's two team assessments of the forecast final cost was noted as verification of Elecnor's fixed price in the Board Minutes November 2024 as part of the discussion of value to consumers inherent in Option 4.

2.8 Delivery Timing

Finding F11. Transgrid’s schedule assessment approach was reasonable and was informed by an independent view

Commentary

E3 Advisory reviewed the approach taken by Transgrid, and considers the approach taken as reasonable in the absence of Elecnor’s ability to undertake a schedule risk assessment. Transgrid’s approach to understand and assess the veracity of Elecnor’s schedule included two Transgrid independent review streams being i) Project Review Team and ii) Chief Procurement Officer (CPO) Peer Review Team. The schedule reviews by Transgrid are summarised as:

- (a) In 2024, Transgrid collaborated with Elecnor to develop a schedule for completion. Despite this collaborative approach, Elecnor’s Offer E was based on an alternative 'without prejudice' schedule, which incorporated revised productivity rates and resource assumptions. This alternate schedule formed the basis of Elecnor’s proposal
- (b) The Transgrid CPO Peer Review Team conducted a high level schedule analysis to assess risks to Elecnor’s program completion with a focus on risk of critical path delays through overhead transmission line procurement and construction. This analysis identified a potential delay in Practical Completion to November 2026, with an additional 10% contingency extending to January 2027. No formal schedule risk analysis of Elecnor’s proposed schedule was possible due to inherent logic flaws, scope omissions, and sequencing errors within the submitted schedule.
- (c) Notwithstanding some material issues identified in Elecnor’s Offer E schedule during assessment, subsequent schedule updates and milestone dates were agreed with an additional 25 months to achieve Works Completion in September 2026 compared to the original EPC Contract. Transgrid was confident that program milestones were based on previously achieved productivity and de-risked with forecast cost to complete risk allowance for additional crews and incentivised program milestone payments. A comparison between the original EPC Contract and the ICC Contract dates is shown below.

	EPC Contract Practical Completion	ICC Contract Delay Damages Relief Date	Variance
SP1	28 July 23	16 Dec 24	17 months
SP2 (Works)	28 Aug 24	28 Sep 26	25 months
SP1-SP2 duration	13 months	21 months	8 months

- (d) The CPO Peer Review Team assessment relied upon Elecnor utilising contingency to accelerate progress to maintain the planned construction, based on statements by Elecnor during the review process. Transgrid’s confidence in achieving the program completion milestones relied on historical productivity used to develop Elecnor’s schedule and the significant incentive provided by the Incentive Escrow Account arrangement, discussed in section 3.1.5.
- (e) Transgrid was informed by T&T’s independent schedule analysis (July 2024) which forecast commissioning completion in December 2026 and the Project Review Team’s schedule assessment

forecasting readiness for Internetwork Testing in the period of August to December 2026. Additionally, the CPO Peer Review Team forecast Practical Completion within the window of September to November 2026. These assessments collectively validated the feasibility of the adopted schedule. A comparison of the schedule assessments against Elecnor’s scheduled completion and the ICC Contract completion date is shown below.

Schedule Review	Elecnor Offer E	Assessment			ICC Contract Delay Damages Relief Date
		T&T Jul 24	TG Project Review Team	CPO Peer Review Team	
SP2 (Works) Practical Completion	Sep 26	██████		Sep 26 to Nov 26 *	28 Sep 26
Readiness for Internetwork Testing	Oct 26		Aug 26 to Dec 26	Jun 26 to Oct 26 *	

* CPO excludes 10% risk allowance

2.9 Alternative Contractor

Finding F12: It was prudent of Transgrid to progress a market tender process for an alternative contractor, the outcome of which provided an efficiency basis for option assessment

Commentary

E3 Advisory reviewed the documentation and chronology of events related to the options for descoping the EPC Contract and completing the PEC works with an alternative contractor. Transgrid’s approach included:

- (a) a two part rationale being i) at one stage, a preference of Elecnor and ii) Transgrid’s concern about the risk of Elecnor Australia’s potential insolvency
- (b) a genuine competitive process with an Expression of Interest (EOI) and Request for Tender (RFT) phase for completion of the PEC works.
- (c) a form of Managing Contractor contract which was appropriate along with the expedited tender period, given the circumstances
- (d) appropriately setting aside assessment of the July Elecnor Offer B, a full descoped except SP1 and S1b, whilst it assessed the replacement contractor tenders
- (e) The outcomes of the tender process provided robust market tested inputs of cost and schedule into the options assessment, which provided an effective indication of the efficiency in cost and time to benchmark other options

The decision to agree the new Contract with Elecnor, was appropriate given the alternative contractor option was a greater cost, a longer schedule, greater risk to Transgrid and delivered lesser net market benefits.

3 Contract Terms and Conditions Review

3.1 Contract Price

Refer section 2.7

3.2 Residual Profit mechanism

Finding F13: Transgrid was prudent in negotiating a profit share mechanism on an open book basis, which incentivised the contractor on achieving efficient cost outcomes

Commentary

E3 Advisory notes that based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of any potential profit including:

- (a) incorporating a contract residual profit mechanism in the event of the actual costs of the Contractor being less than the ICC Contract Price, whereby any profit over \$50m is shared equally between Transgrid and Elecnor
- (b) Along with open-book audit rights and limitations of the definition of profit restricted to corporate regulations and codes limits the risk of costs to date at the time of the agreement of the ICC Contract being misrepresented.

3.3 Delivery Timing

Finding F14: The ICC Contract completion dates were appropriate in the context of the other contract mechanisms

Commentary

The ICC Contract prescribes dates for:

- Practical Completion of Separable Portion SP1 as 16 December 2024.
- Practical Completion of the Works as 28 September 2026.

Refer to Delivery Timing observations at Finding F11, section 2.8.

E3 Advisory noted the approach by Transgrid was reasonable in the absence of Elecnor's ability to undertake a schedule risk assessment; and

- (a) Transgrid was prudent in refining the definition of Practical Completion in the ICC Contract to reflect the risks and accountabilities within the control of the Contractor. The definition of Practical Completion was updated to include Readiness for Tests for Energisation and provides for earlier commencement of Tests for Energisation. The ICC Contract clarifies that Elecnor remains Principal Contractor until Final Completion
- (b) Transgrid was prudent to include other contract mechanisms including incentives, delay damages, and project control obligations within the ICC Contract.

3.4 Delay Damages

Finding F15: Transgrid was prudent and efficient in securing and revising the delay damages mechanism whilst resetting the completion dates, refocussing the Contractor on schedule certainty

Commentary

E3 Advisory notes that based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of delay damages including:

- (a) Transgrid was prudent not to agree a “grace period” for the application of delay damages as proposed by Elecnor in its Offer E, instead delay damages are deferred until the Delay Damages Relief Dates, but apply from original Practical Completion dates of each milestone (except SP1)
- (b) achieving an industry typical, increasing sliding scale which applies in relation to Transgrid's entitlement to accrued Delay Damages for each day Practical Completion of each milestone is not achieved
- (c) the Deed of Release and Amendment notes that Transgrid has accrued delay damages of [REDACTED] for late completion of SP1. The Contractor will pay Transgrid an amount of \$116m.
- (d) Transgrid's rights are extinguished for any further recovery of delay damages or costs incurred up to the SP1 Delay Damages Relief Date, which is a prudent and efficient cost recovery along with the other performance provisions within the New Contract, including delay damages and Transgrid's rights to access the Incentive Escrow Account and Securities.
- (e) [REDACTED]
[REDACTED]
[REDACTED]
- (f) the New Contract provides that the Contractor provides a Replacement Performance Security of \$347.5m and Transgrid can have recourse to the Performance Security including for any failure by the Contractor to pay any Delay Damages
- (g) the additional provisions of the Incentive Escrow Account mechanism as described in section 3.6

3.5 Programme Milestone Dates

Finding F16: Transgrid was prudent and efficient in applying an abatement mechanism to Programme Milestone Dates, focussing the Contractor on an efficient schedule delivery

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation issues including:

- (a) commercially incentivised key milestones were added to the ICC Contract to focus Elecnor including Readiness for Tests for Energisation and tower erection

- (b) a mechanism to enable Transgrid at its sole discretion to drawdown up to \$270m from the Incentive Escrow Account for failure to achieve milestones

3.6 Incentive Escrow Account

Finding F17: Transgrid was prudent in negotiating a \$400m escrow account with the Guarantor to enable efficient claw back in the event of Contractor performance failure

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation issues including:

- (a) an Incentive Escrow Account, considered unique in the Australian market [REDACTED] [REDACTED] which provides for drawdown, at Transgrid's sole discretion, amounts in the event of failure in relation to Programme Milestones, KPIs, delay damages and compliance with the Contract and Deed of Release and Amendment.
- (b) allocated amounts of the \$400m Incentive Escrow Account of up to [REDACTED] for failure to achieve milestones, and up to [REDACTED] for failure of KPIs

3.7 Contractor performance KPIs

Finding F18: Transgrid was prudent in negotiating an efficient performance KPI regime related to Transgrid's objectives

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of Key Performance Indicators (KPI) arrangements including:

- (a) contracted KPIs [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- (a) enabling, at Transgrid's sole discretion, to drawdown from the Incentive Escrow Account in event of Elected's failure to achieve the KPIs

3.8 Project Trust Account

Finding F19: Transgrid was prudent in establishing a Project Trust Account to provide a secure and transparent account for contract payments solely for the Project

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of payment arrangements including:

- (a) all payments by Transgrid or the Guarantor to the Contractor are held on trust in the Project Trust Account
- (b) monthly progress claims will be valued and paid into the Project Trust Account based on earned value by reference to specific units completed as verified by Transgrid’s quantity surveyor
- (c) Elecnor must cover any shortfalls in Project Trust Account and maintain a Minimum Amount of \$25m

3.9 Payment to Transgrid for SP1 delay

Finding F20: Transgrid was prudent in negotiating payment of damages for late Separable Portion SP1

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of delay damages compensation arrangements including:

- (a) the Deed of Release and Amendment notes that Transgrid has accrued delay damages of [REDACTED] for late completion of SP1, however notwithstanding the Contractor denying liability, on a no admissions basis, the Contractor will pay Transgrid an amount of \$116m. Transgrid’s rights are extinguished for any further recovery of delay damages or costs incurred up to the SP1 Delay Damages Relief Date, which is a prudent and efficient cost recovery along with the other performance provisions within the ICC Contract

3.10 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.11 Securities

Finding F22: Transgrid was prudent to negotiate replacement securities commensurate with the ICC Contract Price and consistent with market

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of securities including:

- (a) Elecnor S.A. has sole liability for joint venture performance
- (b) Elecnor S.A will guarantee 100% of Elecnor's obligations, subject to the [REDACTED] of the ICC Contract Price, i.e. [REDACTED] cap on liability and provide a refreshed Parent Company Guarantee
- (c) the ICC Contract provides that the Contractor provides a Replacement Performance Security of \$347.5m, being 10% of the ICC Contract Price.
- (d) Transgrid has recourse to the Performance Security for specific rights and breaches by the Contractor.
- (e) [REDACTED]
- (f) [REDACTED]

3.12 Liability

Finding F23: Transgrid was prudent to negotiate liability caps commensurate with the ICC Contract Price and consistent with market

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of securities including:

- (a) Contractor total aggregate liability cap of [REDACTED] of the ICC Contract Price and required a refreshed Parent Company Guarantee to that same cap
- (b) Contractor's limitation of Delay Damages of 10% of the ICC Contract Price (subset of total aggregate liability cap)
- (c) Limitation on damages for failure of the Works to meet the Performance Guarantee of 10% of the ICC Contract Price (subset of total aggregate liability cap)

3.13 Leadership

Finding F24: Transgrid was prudent and efficient in enhancing contract governance and Elecnor's leadership capacity and capability

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of governance and capability including:

- (a) The ICC Contract requires that Transgrid and Elecnor form a senior steering committee with objectives to:
 - (i) monitor progress against programme and schedule;
 - (ii) identify and resolve emerging issues collaboratively, on a best for project basis and to ensure the best use of resources; and
 - (iii) discuss any Notice to Correct issued by the Employer.
- (b) Elecnor will refresh its project leadership with resources experienced in major infrastructure in Australia
- (c) Transgrid has consent rights over the Contractor's appointment of each member of its project leadership and management team

3.14 Active Client

Finding F25: Transgrid was prudent and efficient in defining an active client role with specific rights which increase Transgrid's control of project management

Commentary

E3 Advisory notes, based on its infrastructure contracting experience, that Transgrid exercised reasonable commercial acumen in negotiation of wider client contractual rights including:

- (a) Transgrid rights including in relation to Resources, Subcontractors, Project Trust Account, Programme Milestones, KPIs, Notice to Correct, Inspection of accounts and audits, Cost control and Progress reports

3.15 Provisional Sums

Finding F26: Transgrid was prudent and efficient, given the remaining scope of the works, to negotiate removal of Provisional Sums

Commentary

E3 Advisory notes, that Transgrid exercised reasonable commercial acumen in negotiation of the ICC Contract Price and value including:

- (a) the ICC Contract Price, includes for the forecast costs of Commissioning Support Services, Special Geological Conditions and disposal of and dealing with Contamination, which previously were provisional sum items.

3.16 Termination Rights

Finding F27: Transgrid was prudent in expanding its rights of termination

Commentary

E3 Advisory notes, that Transgrid exercised reasonable commercial acumen in negotiation of wider termination rights [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.17 Change in Law

Finding F28: Transgrid was prudent in negotiating a narrower definition of Change in Law

Commentary

E3 Advisory notes, that Transgrid exercised reasonable commercial acumen in negotiation of contractor entitlements to claim in the event of a change in law including:

- (a) The rights of Elecnor to make a claim excludes a Change in Law only affecting Contractor performance

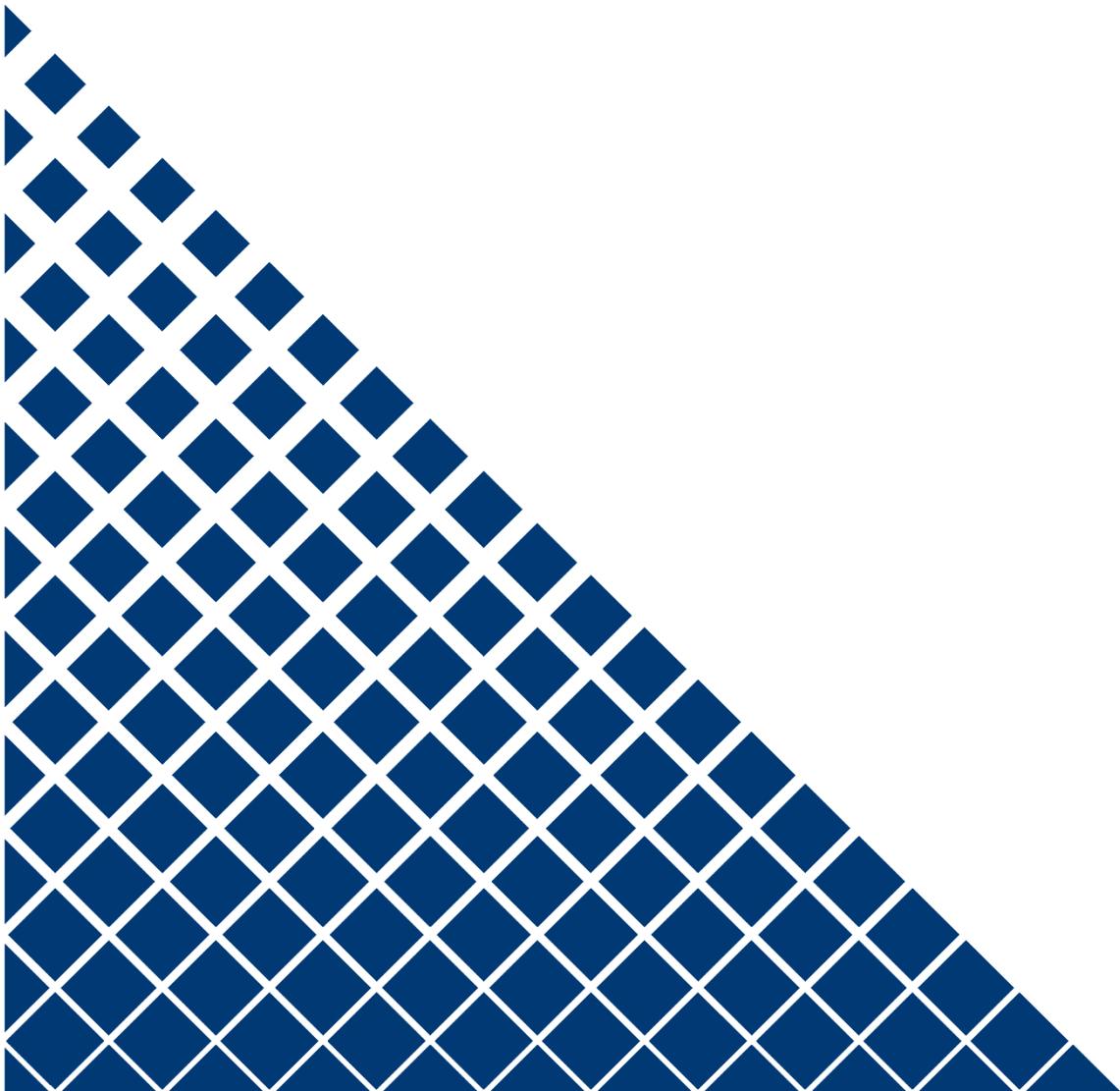
Appendices

A Review Methodology

B Decision Making Chronology

C Register of Key Contract Changes

A. Review Methodology



A. Review Methodology

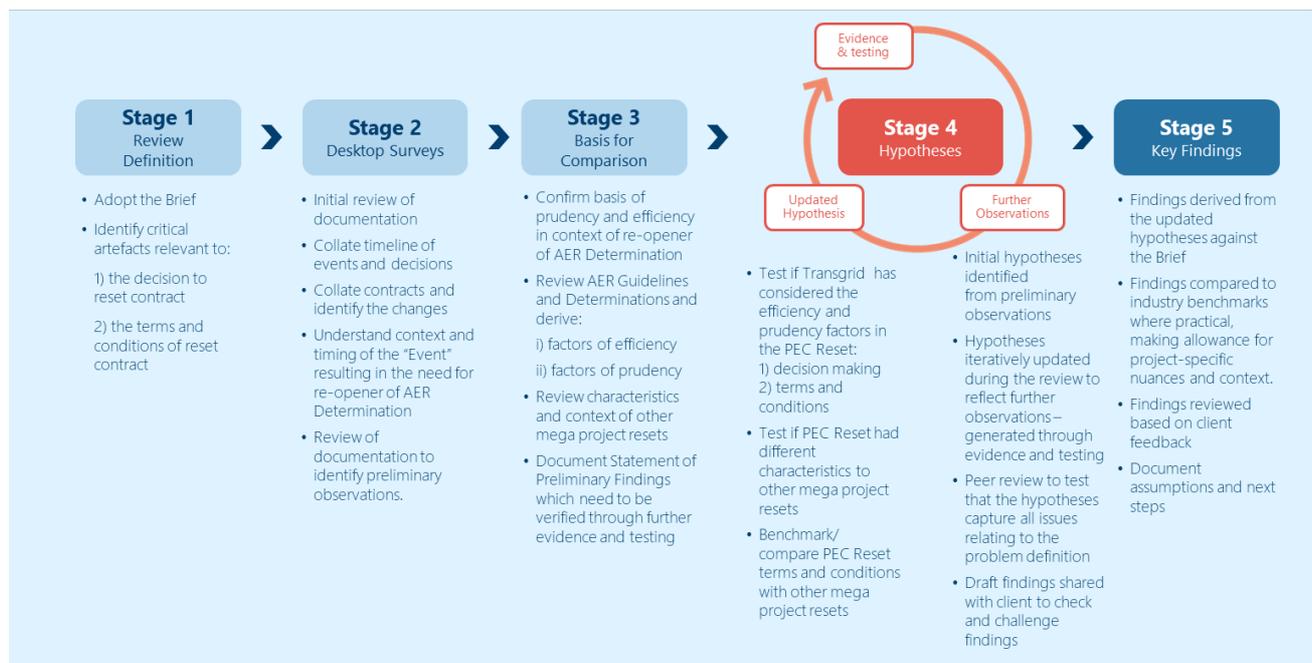
1 Review Methodology

In response to the Brief, E3 Advisory developed a methodology to:

- i) Address the Brief
- ii) Develop criteria to test review findings
- iii) Provide a Statement of Preliminary Findings
- iv) Undertake a deeper review
- v) Document Key Findings

The methodology is outlined in Figure 1.

Figure 1 Review Methodology



1.1 Basis of Review

In responding to the Brief, E3 Advisory sought to expand on the factors that might be considered in any assessment of prudence and efficiency in the context of a transmission project such as EnergyConnect, including with reference to relevant AER documentation

1.1.1 AER Reference Documentation

We have reviewed a few relevant AER guides and recent AER determinations in relation to transmission projects including:

- AER - Final Guidance note - Regulation of actionable ISP projects - March 2021
- AER - Transgrid 2023-28 - Final Decision - WSB - Overview - April 2023

- AER - Final Decision - TransGrid - Project EnergyConnect Contingent Project - May 2021
- AER - Final Decision - ElectraNet - Project EnergyConnect Contingent Project - May 2021
- AER - Determination - Transgrid HumeLink Stage 2 Contingent Project - August 2024

The review of the above AER documentation informed the development of factors of prudence and efficiency.

1.1.2 Prudence and Efficiency Factors

Based on E3 Advisory’s experience and insights from AER determinations and guidelines the following factors and indicators are used to test the actions for the New Contract:

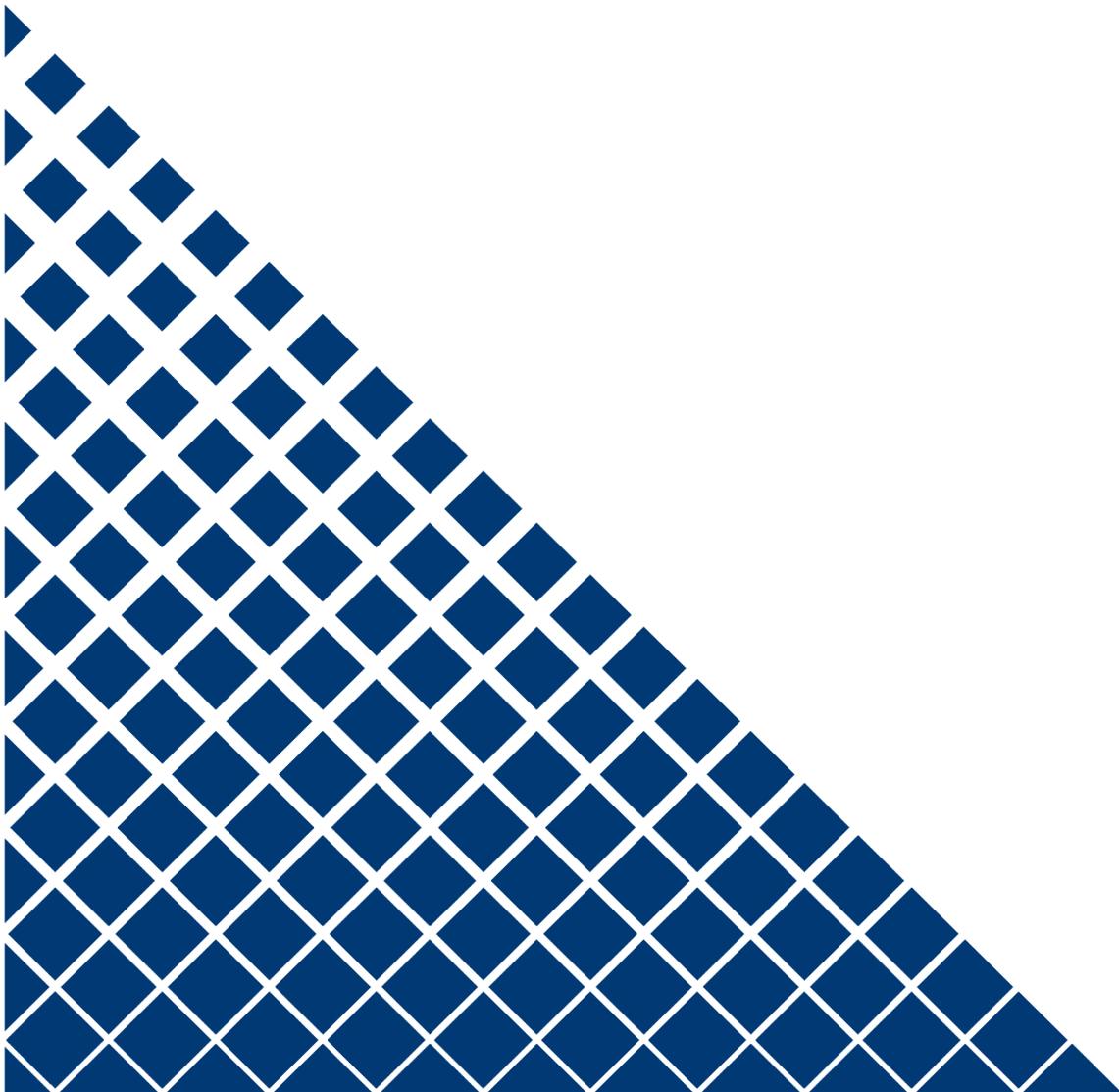
Prudence and Efficiency Factor – Decision Making

- **Decision Governance**
- **Decision Timing**
- **Risk Management**
- **Scope and Change control**
- **Project delivery model and Contractual Arrangements**
- **Lessons**
- **Contract Price**
- **Delivery Timing**
- **Risks, uncertainty and mitigation**

Prudence and Efficiency Factors – Contract Terms and Conditions

- **Contract Governance**
- **Delivery Timing**
- **Risk Management**

B. Decision Making Chronology



Summary Monthly Chronology of Options and Contract Events

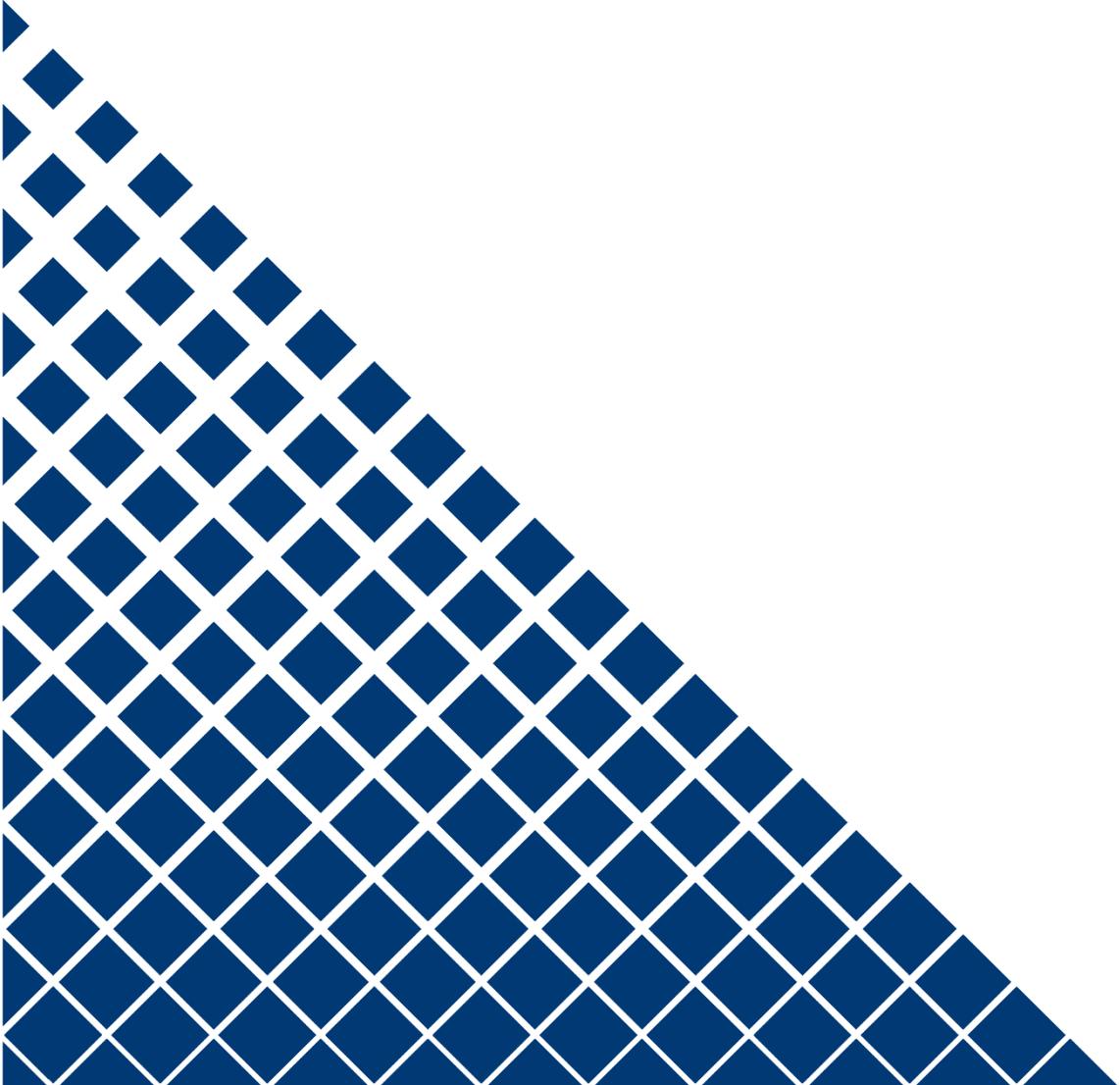
Month	Decisions Made	Negotiations	Payments / Cash Flow / Claims <i>(Cash flow, advance payments, interim funding, emergency payments)</i>	Contracting Strategy <i>(deliver existing Elenor EPC Contract, reset fixed price, descope , replace)</i>	Contractor Behavior <i>(Elenor's mood/willingness to do a deal, transparent communication, collaboration)</i>
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Summary Monthly Chronology of Options and Contract Events

Month	Decisions Made	Negotiations	Payments / Cash Flow / Claims <i>(Cash flow, advance payments, interim funding, emergency payments)</i>	Contracting Strategy <i>(deliver existing Elenor EPC Contract, reset fixed price, descope , replace)</i>	Contractor Behavior <i>(Elenor's mood/willingness to do a deal, transparent communication, collaboration)</i>
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C.Register of Key Contract Changes



Incentivised Completion Cost Contract

Risk / Issue	Description	Clause ref ICC Contract	Risk Allocation		Changes from Orig EPC Contract	Rationale for change	Source document
			TG	EPC			
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]

Incentivised Completion Cost Contract

Risk / Issue	Description	Clause ref ICC Contract	Risk Allocation		Changes from Orig EPC Contract	Rationale for change	Source document
			TG	EPC			
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]

Incentivised Completion Cost Contract

Risk / Issue	Description	Clause ref ICC Contract	Risk Allocation		Changes from Orig EPC Contract	Rationale for change	Source document
			TG	EPC			
						[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]		[REDACTED]

Incentivised Completion Cost Contract

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					<ul style="list-style-type: none"> [Redacted] [Redacted] [Redacted] 		
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[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]						
[REDACTED]	[REDACTED]	[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]

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		[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
		[REDACTED]			[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



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