Monday, 20 April 2026

Carmel Donnelly
Chair
Independent Pricing and Regulatory Tribunal (IPART)

Lodged via email: daniel.suh@ipart.nsw.gov.au

Attention: Ms Donnelly,

CEC submission on IPART's Review of the regulatory framework for Supply Connection Infrastructure in NSW

The Clean Energy Council (CEC) is the peak body for the clean energy industry in Australia, representing nearly 1,000 leading businesses across renewable energy, energy storage, and renewable hydrogen. We are committed to accelerating Australia's transition to a clean energy future as rapidly as possible while maintaining a secure and reliable electricity supply for customers.

CEC welcomes the opportunity to provide feedback on IPART's *Review of the regulatory framework for Supply Connection Infrastructure in NSW – Options Paper*.

Overview

CEC recognises the importance of appropriate standards and regulatory oversight to address risks such as safety and bushfire, cybersecurity or business continuity. However, we consider that these risks are in general adequately addressed by existing regulatory frameworks in relation to supply connection infrastructure (SCI), without any material gaps being present in the current regulatory scope. We outline below in section 1 the existing regulatory frameworks, which include:

- the National Electricity Rules (NER) and Connection Agreements mandated to support NER obligations. The NER and Connection Agreements ensure that the connecting generator remains accountable even where SCI assets are owned or operated by third parties
- Security of Critical Infrastructure (SOCI) Act framework
- business continuity requirements under the national electricity framework and Connection Agreements.

We also note that the current national electricity framework has enabled supply connection assets to be designed, built and operated safely and projects to move through commissioning and onto operation without major safety or system issues. We are not aware of any evidence which would indicate that safety or reliability outcomes have worsened despite growth in SCI assets.

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However, there may be areas for improvement eg to clarify responsibilities for dedicated connection assets (DCAs) or to increase visibility of the operators of DCAs. We consider that these areas of improvement should be explored in the first place through the national electricity framework (including the AEMC rule change process) as discussed in section 3 below. In doing so, IPART should continue to engage closely with the AEMC, AEMO, TNSPs and industry.

If, after further investigation into improvements to the national electricity framework (adopting Option 4), IPART can demonstrate genuine residual risks that cannot reasonably be addressed through the existing national frameworks, CEC supports IPART consulting on additional regulation at a State level (Option 3), provided targeted and proportionate reforms are adopted (permitting exemptions to minimise regulatory burden where appropriate). IPART would need to work closely with the AEMC, other key stakeholders and industry, to ensure that any State reforms are not inconsistent with the national electricity framework and objectives, nor duplicate the obligations under the NER.

CEC does not support Option 1 and 2 as a mandatory licensing framework will:

- blur clear regulatory boundaries by extending the licensing framework beyond the point of connection into the DCA, which creates multiple internal interface points and undermines safety and accountability
- significantly reduce what limited competition currently exists for contestable services for SCI
- add cost, complexity and delays to renewable energy projects, without clear additional benefits.

As a result, Option 1 and 2 will undermine the energy transition, be contrary to the National Electricity Objective (NEO)[1] in the National Electricity Law, and make NSW less attractive for investment.

While CEC does not support mandatory licensing for SCI operators, IPART should clarify a voluntary transmission licence pathway, including criteria and expectations, consistent with approaches in other States.

1. Overview of adequacy existing regulatory frameworks

The Options Paper in section 2.3.2 has identified potential risks from SCI (which includes DCAs, designated network assets (DNAs) and IUSAs) and is seeking feedback on potential gaps in the current regulatory framework for these assets.

In general, we consider existing regulatory frameworks provide appropriate and adequate oversight of these potential risks for the reasons given below[2]:

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[1] The National Electricity Objective, as stated in the National Electricity Law (NEL), is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

(a) price, quality, safety, reliability and security of supply of electricity; and
(b) the reliability, safety and security of the national electricity system; and
(c) the achievement of targets set by a participating jurisdiction—
(i) for reducing Australia's greenhouse gas emissions; or
(ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

[2] This view is supported by the evidence that SCI assets have not shown a deteriorating safety performance despite the increase in volume, and certainly not on a per unit basis.

Cybersecurity risks are addressed through:

- the Security of Critical Infrastructure (SOCI) Act framework which applies to the energy sector and therefore has the potential to apply to the owner and operator of energy infrastructure (including supply connection infrastructure).

- the NSP connection agreement obligations[3] – for example, Transgrid's Connection Agreement applies to all the Connection Applicant's facilities including dedicated connection assets (whether or not owned, controlled or operated by the Connecting Customer)[4] and provides that:

  "the Customer:

  (i) permits Transgrid to install, test, inspect, maintain, repair and replace any operational and physical cyber security measures in the Customer's Facilities; and

  (ii) must each comply with all other cyber security requirements of Transgrid as are notified by Transgrid from time to time,

  to the extent those measures and requirements are necessary for Transgrid to ensure compliance with the conditions of its transmission operator's licence under the ESA and other Applicable Laws."

- AEMO also facilitates self-assessment by Registered Participants against the Australian Energy Sector Cybersecurity Framework (AESCSF) - AEMO | Australian Energy Sector Cyber Security Framework

Safety and bushfire risks are addressed through the national electricity framework as:

- The Generator/IRP as a "Registered Participant" must ensure that all plant and equipment that is part of their facilities is provided, maintained and operated in accordance with ***good electricity industry practice***[5] and ***all relevant Australian Standards****:* NER 5.2.1(a). This obligation is broad and addresses safety and bushfire risks as:

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[3] NER 5.2.1(b) requires the Connecting Generator and the TNSP as Registered Participants to ensure that the Connection Agreement requires the provision, maintenance and operation of all required facilities to be consistent with good electricity industry practice and to achieve a safe and reliable power system. As such, the Connection Agreement is a critical part of the regulatory oversight provided by the NER.

[4] **"Customer's Facilities"** means:
all *facilities* that are:
— directly or indirectly *connected* to the Transmission System at the Connection Point;
— located on the Customer's side of the Connection Point; and
— described in Part A of the Connection Agreement Data Book; **and**
all plant and equipment related to the *facilities* described in limb (a) above, whether or not owned, controlled or operated by the Customer (***including any dedicated connection assets***),

including the Customer's Protection, Control and Alarm Equipment but excluding the Connection Assets.

[5] [5]**Good electricity industry practice** is defined as

> The exercise of that degree of skill, diligence, prudence and foresight that reasonably would be expected from a significant proportion of operators of facilities forming part of the national electricity system for the generation, transmission or supply of electricity or the provision of wholesale demand response under conditions comparable to those applicable to the relevant facility **consistent with applicable regulatory instruments, reliability, safety**

- It is arguable that dedicated connection assets which solely support their generating units are “part of” the Generator’s facilities (whether or not owned, controlled or operated by them).

- Australian Standards would include *AS 5577-2013 Electricity network safety management systems* which deals with the management of bush fire risk related to electricity lines, aerial consumers mains and other assets that are capable of starting a fire, as well as standards applicable to the safe operation of low and high voltage transmission lines (eg (AS3000, AS2067).

- “Good electricity industry practice”[6] arguably would require Registered Participants and their contractors to adopt safety and bushfire measures comparable to those adopted by other operators.

- Transgrid’s Connection Agreement provides that the Connection Applicant must operate, control and maintain the Customer's Facilities: (i) in accordance with the Customer's Technical Obligations, good electricity industry practice, the requirements of this agreement and all Applicable Laws[7]. Customer facilities include DCAs whether or not owned, operated or controlled by the Customer.

- The Connection Agreement also gives the power to the connecting TNSP to force the connecting party to comply with obligations necessary for the safe, reliable and secure operation of the power system, and can allow them to be forcibly disconnected where they do not comply.

- The Connection Agreement also gives the connecting TNSP the power of requesting tests of the Facility at any time and to their standards.

- As a matter of practice, a TNSP considers safety issues in their review of the project as a whole. In addition, in response to a connection enquiry, a TNSP must specify functional specifications of the interface between the shared transmission network and the new connection work, whether it is DCA, DNA, IUSA: NER 5.3.3(7).

- TNSPs also review the technical matters agreed via S5.2.3 of the NER.

Please also note that the contractors engaged by Generators/IRPs for services from design to operations are accredited and often the same entities employed by NSPs for their prescribed and negotiated network services.

Business continuity risks are addressed as:

- AEMO considers an organisation’s ability to comply with National Electricity Rules (NER) and financial viability, requiring audited financial statements and, if required, credit

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and environmental protection. The determination of comparable conditions is to take into account factors such as the relative size, duty, age and technological status of the relevant facility and the applicable regulatory instruments.

[7] Under Transgrid’s Connection Agreement, “Applicable Laws" is broadly defined as “the Electricity Supply Act, the NEL, the Rules and any other legislation, rules, regulations, codes, Directives, licence conditions and other regulatory instruments which are directly or indirectly binding on or are expressed to apply to Transgrid or the Customer (as applicable), and which relate to the Transmission System, the Customer's Facilities…”

support (e.g., bank guarantees), as part of the application to register as a Generator or Integrated Resource Provider.

- NER 2.9A sets out the process to be followed in order to transfer a Registered Participant's registration to another person: AEMO | Transfer a NEM registration

- the TNSP's Connection Agreement requires credit support usually in the form of a Bank Guarantee and the agreement deals with insolvency. We understand a TNSP must notify AEMO if a Customer becomes insolvent.

- there are processes for a Registered Participant to de-register and cease operations.

Operational and reliability risks are addressed through dedicated and site-specific Operational Protocols protecting NSPs, the NER and the relevant AEMO/NSPs guidelines.

Environmental and land-use risks are covered through the development and environmental approval processes.

2. Dedicated Connection Assets

The NER provides in item 4 of the table in NER 5.2A.2(a) that:

- If owned, operated or controlled by a Primary Transmission Network Service Provider, a DCA forms part of that provider's broader transmission system

- For a dedicated connection asset that is not owned, operated or controlled by a Primary Transmission Network Service Provider, that asset forms part of the asset owner's facility.

The NER also permits a person who owns, controls or operates a dedicated connection asset to elect for that dedicated connection asset to be a designated network asset under clause 11.139.4 of the NER: see note to the DCA definition under the NER.

The Options Paper at page 28 has identified a concern that third-party owners and operators of DCAs are not registered participants under the NER and "they fall outside AEMO and the AER's oversight and the compliance obligations that apply to NSPs".

We have been advised by our members that DCAs are usually either owned by the TNSP or owned by the generator. Where the DCA is not owned by the TNSP, the generator has an incentive to ensure reliability of the transmission line, as it directly impacts their ability to generate and make revenue.

We do not agree that there is a lack of regulatory oversight of DCAs under the national electricity framework. The framework addresses safety and reliability risks of DCAs (regardless of the entity owning or operating them):

- by making the Connecting Applicant as Registered Participant, responsible for all assets in their facilities under NER 5.2.1(a) and (b).

- through the Connection Agreement (which applies to a DCA, whether or not it is owned, operated or controlled by the connecting generator).

- through the obligation for the Connecting Applicant to design and construct DCA assets in accordance with Australian Standards as a minimum.

- through the functional interface specification, and review of all parts of the project (including technical standards).

- through the DNA framework which some DCAs have opted into[8].

3. Overview of CEC's position on Options 1- 4

As noted above, there are extensive regulatory frameworks which address the potential risks from SCI identified by IPART. We consider that IPART's concerns about whether the regulatory frameworks for SCI, (in particular, DCAs), remain fit for purpose, could be, and should be, first addressed through the national electricity framework.

We recommend IPART should work with the AEMC and other key stakeholders as well as industry, in identifying improvements to the national electricity framework before considering whether to implement an additional regulatory framework in NSW.

We therefore recommend that IPART pursue Option 4, ie retain the status quo but at the same time investigate improvements to the current regulatory framework.

If, after further investigation into improvements to the national electricity framework (adopting Option 4), IPART can demonstrate genuine residual risks that cannot reasonably be addressed through the existing national frameworks, CEC supports IPART consulting on additional regulation at a State level in NSW (Option 3), provided targeted and proportionate reforms are adopted (with exemptions to minimise regulatory burden where appropriate). IPART would still need to work closely with the AEMC, other key stakeholders and industry, to ensure that the proposed State reforms are not inconsistent with the national electricity framework and objective, nor duplicate the obligations under the NER.

CEC does not support Option 1 and 2.

Our more detailed comments in relation to each of the Options are outlined below:

Option 1 and 2

CEC does not support Option 1 and 2 (ie requiring full or modified transmission licences for entities that contestably operate SCI) as it will add cost, complexity and delays to renewable energy projects, without clear additional benefits. In particular:

- Option 1 and 2 will significantly reduce competition in the provision of contestable services applicable to DNAs, DCAs and IUAs (contestable services) – the cost and ongoing compliance burden associated with obtaining and maintaining such a licence is likely to exclude many service providers that are currently capable of delivering these services.

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[8] The rule change in 2021 *Connection to dedicated connection assets* meant that large DCAs (transmission lines greater than 30km) were considered to be Designated Network Assets (DNAs) and part of the transmission network. Small DCA's (less than 30km) could opt into a DNA if they chose to.

There are currently five DNAs and two of them are with Lumea with a record of the access policy kept by the AER. Designated network assets | Australian Energy Regulator (AER)

This is a significant concern as there is already limited competition for contestable services. Most developers choose the TNSP's related entity to provide contestable services to avoid the perceived risk of the incumbent TNSP engaging in (hard to detect) discriminatory conduct if their related entity is not awarded the non-contestable services. A reduction in competition for contestable services is likely to result in a significant increase in the costs of projects.

- Project costs are also likely to increase as the licensing framework would introduce additional complexity into the structure of projects.

- There is already a limited pool of contractors that can carry out contestable services on the balance of plant for a project and reducing that pool by requiring licences under Option 1 and 2 would delay projects.

As a result, Option 1 and 2 will slow down the energy transition, be contrary to the NEO and make NSW less attractive for investment.

In addition, CEC does not support Option 1 and 2 as the proposed licensing framework:

- blurs clear regulatory boundaries, creating multiple internal interface points and undermines safety and accountability.

  The Point of Connection (PoC) between a facility and the network provides a clear demarcation for scopes, roles and the coverage of regulations; the NER is clearly centred upon obligations starting and ending at the Point of Connection for Generator performance standards and several other obligations. Should new regulations permeate inside DCAs, there would be no clear physical interface point for such regulations at the facility end. As a consequence, there would be a site-specific multitude of different and confusing scope coverages ending at collector substations high voltage point, collector substation medium voltage point, reticulation ends, turbine or inverter terminals. This lack of clarity in itself can lead to a loss of safety and accountability.

- imposes obligations that may be appropriate to the operator of a large, shared network infrastructure but disproportionate to an SCI operator (DCAs serve a single user and SCI may have a more limited system impact). Requiring transmission licences for SCI amounts to a disproportionate regulatory burden.

- adds an additional layer of regulation, which increases the risk of inconsistency between the State and Commonwealth rules. For example, Option 1 and 2 would require amending the ES Act to provide that DCAs and any other similar future types of contestably operated supply connection infrastructure are ***transmission systems*** and that a person must not operate a transmission system that consists of or includes these assets without a transmission licence. This would also clarify that an entity that contestably operates supply connection infrastructure is a **'network operato**r' that is subject to the Safety Regulation.

  However, this is potentially inconsistent with the NER which provides that a DCA that is not owned, operated or controlled by a Primary Transmission Network Service Provider, forms part of the asset owner's facility (and not the transmission system).

- is inconsistent with the treatment of other operators of transmission networks eg private transmission networks on off grid mining facilities which are unlicensed.

- lacks clear boundaries to prevent scope creep (ie could it apply not only to DCAs but further into the Generators/IRP's facilities).

Other comments

Although we do not support a mandatory requirement for an operator of SCI to hold a transmission licence, we consider that there is merit in IPART clarifying the pathway to obtaining a transmission licence for consistency with other States eg what details are needed about the application process, the assessment criteria and the costs and timeframe for obtaining a licence.

We do not consider IPART should be recommending Option 1 and 2 without this additional information as the regulatory burden and the impact on competition for contestable SCI services cannot be properly assessed.

Options 3 and 4

Before adding additional State regulation, we recommend that IPART should work with key stakeholders (including AEMC/AEMO/AER) and consider whether any material demonstrated risk can be addressed under the national electricity framework:

- by clarifying the existing rules

- by making changes to the NER via the AEMC rule making process

- through Connection Agreements eg to more explicitly deal with bushfire or business continuity risks.

Improvements explored as part of Option 4

We support Option 4 as a recommended action as it enables improvements to the national electricity framework to address identified risks with SCI to be explored in the first place.

For example, the NER could be amended to

- require TNSPs to provide a list of approved service providers (which can be used by developers for their projects). The criteria for the selection of approved service providers should be transparent. One criterion could include service providers that have undertaken the TNSPs power system safety training. There should also be a pathway for other service providers to apply to be approved.

- require TNSPs to update annually their safety frameworks (including bushfire plans) and publish them. This then would set the standard for good electricity industry practice which other operators must follow under the NER.

- require AEMO/NSP to publish a list of all DCAs and their operators.

IPART may be able to agree the above by working with AEMO and TNSPs without a rule change.

Option 3

If IPART considers that there is need for additions to a State regulatory framework to address clearly identified or demonstrated risks arising from SCI, CEC would support Option 3 as a reform (rather than Option 1 and 2).

Any State based regulatory reform should:

- align with existing Commonwealth frameworks

- avoid duplicating requirements already covered under the NER, Connection Agreements and other regulatory arrangements

- not be inconsistent with the NER nor the NEO

- be proportionate by allowing targeted exemptions.

The CEC welcomes further engagement with IPART as this review. Further queries can be directed to dstaats@cleanenergycouncil.org.au.

Kind regards

Martin Kennedy

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