

Donna Harris

From: Nicole Howard [REDACTED]
Sent: Monday, 17 September 2018 8:01 PM
To: Security of Payment 2018
Cc: David Fayyad
Subject: TransGrid's response to the Building and Construction Industry Security of Payment Amendment Bill 2018

Categories: Pauline, Purple Category

To whom it may concern;

TransGrid welcomes the opportunity to make this submission on the exposure draft of the *Building and Construction Industry Security of Payment Amendment Bill 2018* (the **Bill**).

TransGrid is the operator and manager of the high voltage electricity transmission network connecting electricity generators, distributors and major end users in New South Wales and the Australian Capital Territory. TransGrid's electricity transmission network is also interconnected to Queensland and Victoria. TransGrid also manages and directs the construction and maintenance of high voltage electricity transmission assets.

TransGrid would like to provide its feedback for consideration by the Department of Finance, Services and Innovation.

While TransGrid supports the majority of proposed changes to the Bill, TransGrid is concerned about the impact the amendment to Part 2, Section 11 (1A)(a) of the *Building and Construction Industry Security of Payment Act 1999*. This amendment is detailed in Schedule 1 [4] of the Bill.

TransGrid manages a large volume of construction contracts, which can include quite complex schedules of rates and construction programs. As a result, the payment claim verification and payment schedule process is time consuming. TransGrid often uses the 10 business days as provided for in Part 3, Division 1, Section 14 (4)(b)(ii) to both review the payment claim and ask for additional evidence from the contractor. While this process is not prescribed in the legislation, TransGrid uses the 10 business days to give the contractor an opportunity to submit additional information which the contractor may have

missed in providing the initial claim documentation. This clarification process reduces the number of rejected or reduced claims.

The amendment to reduce the period to make a progress payment from 15 business days to 10 business days will give TransGrid less time to review the payment claim and provide detailed payment schedules, as well as, less opportunity for contractors to submit additional information. Without this opportunity for additional dialogue with and review of the payment claim documentation by the contractor, TransGrid will be unable to thoroughly assess the contractor's claim and this may result in claims being denied or reduced as the contractor will not have the opportunity to provide feedback before the payment is finalised. This in turn may lead to more matters proceeding to adjudication to resolve perceived underpayment, with a further negative impact on the flow of payment down to sub-contractors.

A second point to note is that Part 3, Division 1, Section 14 (4)(b)(ii) has not been amended. The current terms would result in contractors receiving the payment schedule and payment of their claim on the same day, that is within 10 business days of the claim. This again erodes the opportunity for the contractor to clarify matters raised in the payment schedule or provide additional evidence. As indicated above, TransGrid believes that this lost opportunity has the potential to result in a higher rate of disputed claims in adjudication as well as delay the flow of payments down to sub-contractors.

It is TransGrid's submission that the amendment proposed in Schedule 1 [4] will result in greater instances of disputed payments and payment delays to subcontractors. Organisations will not have adequate time to review payment claims and contractors will not have enough time to submit additional documentation before the payment schedule must be provided.

If you require any additional information or would like to discuss this feedback further, please do not hesitate to contact the undersigned.

Regards

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