THE HON CHRIS BOWEN MP
MINISTER FOR CLIMATE CHANGE AND ENERGY

MS23-001213

Ms Anna Collyer
Chair
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
SYDNEY NSW 2000

Anna.collyer@aemc.gov.au

Dear Ms Collyer Anna

Please find attached a rule change proposal to amend the National Electricity Rules to mitigate the foreseeable risk that financeability concerns may arise for actionable Integrated System Plan projects.

These necessary changes were recommended in the Australian Energy Market Commission's (AEMC) final report for Stage 2 of its Transmission Planning and Investment Review.

I endorse this rule change request and ask the AEMC progress with its initiation.

Yours sincerely

CHRIS BOWEN

Enc

Australian Government
Department of Climate Change, Energy, the Environment and Water

Attachment D

Rule Change Proposal

Treatment of financeability for Transmission Network Service Providers

March 2023

1. Request to make a Rule

1.1. Name and address of the person making the request

The Honourable Chris Bowen MP
Minister for Climate Change and Energy
Parliament House
Canberra ACT 2600

2. Relevant background

2.1. Energy Ministers Meeting

On 28 October 2022, Energy Ministers agreed that the Commonwealth submit a rule change request to the Australian Energy Market Commission (AEMC) seeking to mitigate the foreseeable risk that financeability concerns may arise for Integrated System Plan (ISP) projects.

2.2. AEMC Transmission Planning and Investment Review

The AEMC established the Transmission Planning and Investment Review (the Review) to ensure that the regulatory framework can support the timely and efficient delivery of major transmission projects, while ensuring investments in these projects are in the long-term interests of consumers.

On 27 October 2022, the AEMC published the Review's Stage 2 Final Report. This report focused on developing recommendations to manage uncertainty in the near-term. A recommendation in the Stage 2 Final Report was to address foreseeable financeability issues.

The Commonwealth agrees with the AEMC's final position outlined in Stage 2 of the Review and considers that changing a Transmission Network Service Provider's (TNSP) cash flow profile through a net present value (NPV) neutral adjustment to depreciation is an appropriate solution to address financeability issues, should they arise.

2.3. Alleviating financeability concerns

Prior to the proposal of this reform, TNSPs have sought alternative methods to address their financeability concerns, such as sourcing appropriate financing from the Commonwealth, including through the Rewiring the Nation program.

Following the implementation of this proposed rule change, the Commonwealth expects the Australian Energy Regulator's (AER) ability to vary depreciation profiles to be the primary mechanism that TNSPs will need to pursue to address any financeability concerns they may have.

3. Statement of Issue

3.1. There is a risk that financeability challenges could arise in relation to actionable ISP projects

This rule change request seeks to introduce greater flexibility in the revenue-setting framework for actionable ISP projects within the National Electricity Rules (NER), to address the risk of financeability issues faced by TNSPs.

Financeability refers to the ability of TNSPs to efficiently raise capital to finance their activities. The AEMC in the Stage 2 Final Report of the Review noted that financeability concerns for a TNSP may arise from the way that cash flow is impacted by major investments.[1] Successive ISP iterations will likely see major transmission works brought forward and/or delivered concurrently in a way that creates a risk of financeability issues arising for affected TNSPs.

As noted in the Review, when a network business invests in a project, it starts receiving a return on the investment based on a forecast capital expenditure.[2] The network business also starts receiving a return of the investment (depreciation), from consumers, when the investment is commissioned.

- The total allowed revenue from this 'depreciation' is determined by the depreciation profile of assets (typically a straight-line basis), and an adjustment for inflation indexation.

Depending on the financing and capital structures that have been adopted by the TNSP, the business' cash flow profile may not match its financing requirements.

This has the potential to have short-term negative impacts on some of the financial metrics that are used to assess the creditworthiness of a business. The ratio of funds from operations (FFO) to net debt (or FFO/net debt) is one such metric.

In the ordinary course of investment, new transmission assets (or augmentations) would be unlikely to have significant impact on these financial metrics as TNSPs' Regulatory Asset Bases (RAB) have a diversity of assets with different durations to expiry.

Typically, a TNSP could absorb large one-off investments with appropriate changes to its capital structure without adverse impact to financial metrics. Shareholders supporting cashflows through contributing equity in early years and receiving higher cash flows in later years is one example of this. In practice, however, TNSPs may be constrained from adapting their capital structures to finance the size and scale of sequential ISP projects.

Given that successive ISPs could see major transmission works moved forward or delivered concurrently, there is a risk financeability issues will arise for TNSPs, placing pressure on cash-flows and by extension credit metrics.

The Review found that this risk was material where successive ISPs result in a large amount of new investment for a TNSP relative to its existing RAB. The Commonwealth agrees with the Review, that the existing revenue framework is not sufficiently flexible to address potential financeability challenges.

While the AER has some flexibility under current arrangements to adjust the profile, and timing of regulatory allowances:

- Further clarity is required on how the AER should assess and, if necessary, adjust depreciation profiles for ISP projects to address cash flow concerns.
- The AER should be given flexibility to address the risk of financeability challenges on a case-by-case basis, having regard to a set of principles specified in the NER.
    - Changing a TNSP's cash flow profile through a NPV neutral adjustment to depreciation is an appropriate solution to address the issue.

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[1] Australian Energy Market Commission, Transmission Planning and Investment Review Stage 2 Final Report, Sydney, 27 October 2022, p. 8.
[2] Australian Energy Market Commission, Transmission Planning and Investment Review Stage 2 Final Report, Sydney, 27 October 2022, p. 8.

- The AER should explicitly outline how and when depreciation is expected to be applied to different types of asset classes in guidelines.
  - This rule change request outlines guidance on how market participant (TNSPs and market bodies) will look to depreciate biodiversity offset costs on an as-incurred basis, where doing so promotes the achievement of the National Electricity Objective (NEO).

4. Description of the proposed rule

The proposed financeability rule would amend the NER to implement the rule change recommendations contained in the Review's Stage 2 Final Report, dated 27 October 2022. The proposed amendments, which were prepared by the AEMC and accompanied the Stage 2 Final Report, are attached to this request.

The Commonwealth proposes:

- The AER should have explicit discretion to vary the depreciation profile for an actionable ISP project on a case-by-case basis following a request for amendment from a TNSP.
  - This is to support the capacity of TNSPs to finance efficient capital expenditure associated with such major projects. It is proposed that a TNSP can make an application to amend the depreciation profile for a specific project when submitting a contingent project application (CPA).
- The rules should include a set of principles to guide the AER in determining whether or not to amend the depreciation profile for a specific actionable ISP project.
- The AER should explicitly outline how and when depreciation is expected to be applied to different types of asset classes in guidelines.

The proposed amendments would promote the timely and efficient delivery of ISP projects by introducing greater flexibility into the revenue-setting framework mitigating the foreseeable risk of financeability for TNSPs.

4.1. AER explicit discretion to vary the depreciation profile

The AER should have explicit flexibility to vary the depreciation profile for actionable ISP projects if financeability issues arise. The majority of stakeholders engaged in the Review supported varying depreciation as the appropriate solution to these challenges.

The Review concluded:

> "...it is important to ensure that the AER has sufficient flexibility to address the risk of financeability challenges on a case-by-case basis, including the ability to shape cash flows for specific projects in a manner that is appropriate to compensate a business for its efficient costs over time, as well as incentivise timely and efficient new transmission investment. Further, the Commission considers it is important that the overall regulatory framework is flexible enough to address financeability issues if they arise, regardless of whether concessional financing is available or not." [3]

[3] Australian Energy Market Commission, *Transmission Planning and Investment Review Stage 2 final report*, Sydney, 27 October 2022, p. 10.

This rule change request and proposed draft rule seeks to:

- Allow the TNSP for an actionable ISP project, to make an initial request to the AER to develop and publish an issues paper. This issues paper must provide an indication of the AER's thinking on a proposed depreciation change, prior to the TNSP submitting a request to vary the depreciation profile for the project. The request for an issues paper would be made by the TNSP to the AER between six to four months before submission of a CPA, and the issues paper would be published within two months of receiving the request (unless the AER requires additional information from the TNSP, in which case the time limit would be extended by the period of time it takes the TNSP to provide the additional information) (proposed cl 6A.6.3(h)-(l)).
- Allow the TNSP for an actionable ISP project to request the AER vary the depreciation profile for said project. The request for the AER to vary the depreciation profile for the project would be made when the TNSP submits the CPA (proposed cl 6A.6.3(d) and (e)).
- Exempt the evaluation of actionable ISP projects from existing depreciation requirements in the Rules to explicitly allow the AER to depreciate ISP assets over a life different to their economic lives and natures (proposed clause (6A.6.3(d)).
- Insert a set of principles to guide the AER's approach to considering requests to vary depreciation profiles (proposed cl 6A.6.3(f)), in particular, by requiring the AER to have regard to:
    - the relative consumer benefits from the provision of network services over time
    - the capacity of the TNSP to efficiently finance its overall regulatory asset base including efficient capital expenditure
    - any other factors the AER considers relevant.
- Empower the AER to prepare guidelines relating to the making and determination of requests to vary depreciation (proposed cl 6A.6.3(g)).
- Require a revenue proposal to include the TNSP's nominated depreciation schedules and information about whether the relevant assets form part of an actionable ISP project (proposed amendments to cl S6A.1.3(7)).
- Insert a definition of 'initial request' into Ch 10 of the NER.

4.2. The AER's application of depreciation to different asset classes

The AER should be required to explicitly outline how depreciation is expected to be applied to different types of asset classes including biodiversity offsets.

This rule change request proposes that the AER:

- Outline how depreciation is expected to be applied to different types of asset classes for actionable ISP projects, in circumstances where financeability concerns are and are not present.
    - In jurisdictions it is applicable, this will promote transparency and provider greater certainty of revenues to regulated businesses and costs for consumers.

4.2.1 Biodiversity offsets

The asset class of most concern is biodiversity offsets. For major ISP projects, biodiversity offset costs are expected to account for a material proportion of overall project costs. They are also expected to materially impact on financeability in the absence of being depreciable. For major ISP projects there is a stronger public policy justification to commence depreciation during construction compared to other asset classes as the utility of biodiversity offsets begins when construction—which disturbs the natural environment—commences and the biodiversity offset ensures a degree of protection for the impacted species. This early public utility as compared to other asset classes gives merit to commencing depreciation of biodiverse offsets during construction, but only where doing so contributes the achievement of the NEO.

There have been cases, where biodiversity offsets have not been treated as a depreciating asset class. Treating biodiversity offsets as non-depreciable results in a lower cash flow for TNSP's in the initial stages of a project, potentially resulting in financeability issues.

Depreciating biodiversity offsets on an as incurred basis could promote the NEO in a number of ways, for example:

- It could be used to overcome or mitigate TNSPs financeability concerns in a NPV neutral manner, particularly in the period before the changes subject to this rule change request can be applied to major ISP projects.
- Reduce (both upfront and retrospectively) the amount of Rewiring the Nation funding used to address TNSPs' financeability concerns.
    - The use of Rewiring the Nation funding to address financeability concerns is not NPV neutral; it provides a financial benefit to the TNSP. This financial benefit, however, could have otherwise been used to lower electricity consumers' costs had it not been needed to address financeability.

The AEMC should consider whether giving the AER explicit discretion to begin depreciating of biodiversity offset costs from the time the costs are incurred, rather than waiting for the project to be complete and operational. This would reduce the need for the AER to adjust the future depreciation profiles and improve consumer outcomes. If this discretion is granted to the AER, the ability to change the deprecation profile specifically for biodiversity offsets (where it will promote the NEO), should also be granted. Given this discretion is to directly promote the NEO, varying the depreciation profile, of biodiversity assets would not require an application from the TNSP to the AER as would be the case for other assets as outlined in this rule change request.

4.3.The AER's approach to assessing requests to vary depreciation should be guided by a set of principles in the rules

This rule change request and associated proposed rule, seek amendments to the NER to insert a set of principles to guide the AER in developing its approach and assessing requests to amend depreciation in relation to actionable ISP projects (proposed cl 6A.6.3(f)). The three principles are:

Principle 1: The relative consumer benefits (having regard to the reliability and price risk associated with transmission delivery delays) from the provision of network services over time (the inter-generational equity principle).

Principle 2: The capacity of the TNSP to efficiently finance its overall RAB, including efficient capital expenditure (which focuses on the capacity to finance a project at the network business level, rather than at the project level).

Principle 3: Any other factors the AER considers relevant, having regard to Principles 1 and 2.

The proposed NER amendments also seek to allow the AER to develop guidelines relating to the making and the determination of such requests including;

- the approach the AER proposes to use
- the information the AER requires for the purpose of that determination
- the information the AER requires for developing and publishing the issues paper (proposed cl 6A.6.3(g)) for which the TNSP must have regard to when making the request for varied depreciation for an actionable ISP project; and
- any other matters the AER considers appropriate (proposed cl 6A.6.3(g)(4)).

The AEMC in its deliberations should consider the use of a principles versus a prescriptive test for the assessment of whether to vary the depreciation profile of an actionable ISP project, as well as whether this assessment is conducted at the regulated business level or project level.

4.3.1 Principle 1

Principle 1: *The relative consumer benefits (having regard to the reliability and price risk associated with transmission delivery delays) from the provision of network services over time (the inter-generational equity principle).*

Principle 1 requires the AER to consider whether the impact of varying depreciation on the benefits/costs borne by present and future customers is appropriate. If variations are made to depreciation by accelerating depreciation in the early years of an investment, and slowing it down in later years, the intergenerational impact on customers must be considered.

The Commonwealth agrees with the Review's conclusion that:[4]

> "...the appropriate way of assessing inter-generational equity trade-offs is from the perspective of overall consumer benefits. A shift in depreciation will be net present value neutral from the perspective of the TNSP. This means that consumers overall will pay the same over the life of the asset. Near-term consumers will pay a larger share than later consumers, but in [*sic*] this in turn allows the project to proceed. If shifting of the depreciation profile allows the project to proceed in a timely manner then [the] these [*sic*] consumer benefits from the delivery of the project can be unlocked. We expect the AER will have regard to this perspective when assessing requests to amend depreciation profiles."

4.3.2 Principle 2

Principle 2: *The capacity of the TNSP to efficiently finance its overall RAB, including efficient capital expenditure (which focuses on the capacity to finance a project at the network business level, rather than at the project level).*

Principle 2 requires the AER to have regard to the network business as a whole (the regulated network service provider), rather than individual projects, when assessing whether to vary the depreciation profile for an actionable ISP project. This is in line with the AER's requirements to have regard to the network business as a whole when setting the revenue TNSPs can recover from their customers.[5]

[4] Australian Energy Market Commission, Transmission Planning and Investment Review Stage 2 Final Report, Sydney, 27 October 2022, p. 10.
[5] NER clause 6A.1.1.

The Review notes that the core parts of the regulatory framework reflect economic assessment at a network business level. For example, the allowed rate of return is set for regulated network service providers and not individual projects.[6] The revenue and pricing principles also make it clear that it is the "regulated network service provider" that "should be provided with a reasonable opportunity to recover at least efficient costs".[7]

As stated in the Review:[8]

> "The Commission considers that ... adopting specific metrics as the sole measure of businesses' financeability may not be appropriate. Moody's and other credit rating agencies combine an assessment of both qualitative and quantitative metrics to arrive at an overall rating. For example, while FFO/Net Debt is a key factor considered by Moody's, it is not appropriate for assessment of financeability to rely so strongly on a single metric. Such an approach would also present the key issue of how an appropriate threshold for this credit metric should be determined. Further, there are a range of company-specific factors that contribute to credit ratings and credit metric thresholds, such as how a company has structured their balance sheet, [the company policy of target credit rating] and the risks associated with non-regulated revenues. These factors may lead to a narrowly defined approach to assessing financeability producing unintended consequences.
>
> A more targeted approach to considering financeability, only where this is raised by a business with respect to a specific actionable ISP project, would be more appropriate given the issue is likely only to arise in limited circumstances.
>
> The Commission considers it appropriate that the AER will consider the capacity to finance the ISP investment at the network business level and not at the project level. As part of this assessment, consideration should also be given to how an investment in a particular project may impact the overall position of the business (including in relation to financial metrics) and where the TNSP will sit after the inclusion of the project."

4.3.3 Principle 3

Principle 3*: Any other factors the AER considers relevant, having regard to Principles 1 and 2.*

Principle 3 aids the intent that the regulatory framework has a proportionate and flexible mechanism for addressing financeability concerns if they arise. Sufficient flexibility can be achieved by providing the AER with an appropriate level of discretion to incorporate other relevant factors into its assessment of a request to accelerate depreciation.

Principle 3 will enable the AER to factor in a broader range of factors that may impact its assessment or decision for a particular project, such as emissions reduction targets if included in the NEO. This is necessary, given that Principles 1 and 2 are not exhaustive.

5. How the proposed rule will address the issue

Including flexibility within the revenue setting framework to address potential financeability challenges will enable TNSPs to effectively finance the projects, allowing actionable ISP projects to progress in a timely manner.

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[6] AER (2018), Rate of Return instrument.

[7] Clause 7A(2) of the NEL.

[8] Australian Energy Market Commission, Transmission Planning and Investment Review Stage 2 final report, Sydney, 27 October 2022, p. 13.

These recommendations will assist in alleviating financeability concerns in the near-term as:

- The AER will be able to make decisions to vary depreciation profiles based on the depreciation principles in the NER as soon as the rule is made. The new rule can subsequently be supplemented with more detailed information in guidelines.
- TNSPs will be able to submit a request for the development of an issues paper about accelerated depreciation prior to the CPA stage to facilitate investment certainty.

The amendments outlined above will help to ensure timely investment decisions to enable critical transmission infrastructure to be delivered on time.

6. How the proposed rule will or is likely to contribute to the achievement of the National Electricity Objective

The NEO, as set out in section 7 of the National Electricity Law, 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."

The relevant aspect of the NEO, with respect to this rule change request, is the promotion of efficient investment in electricity services for the long-term interests of consumers of electricity with respect to price, quality, safety, reliability and security of the supply of electricity.

Timely and efficient investment in actionable ISP projects is required to ensure reliability and security of the supply of electricity, and to reduce adverse impacts on price as the electricity system transitions to net zero.

The proposed amendments advance the NEO in the following ways:

- Empowering the AER to vary the depreciation profile for actionable ISP projects is a flexible solution that addresses financeability challenges that may arise in the future.
  - Making the power explicit provides certainty for TNSPs as to how future financeability issues will be addressed.
  - Allowing the AER to exercise the power on a case-by-case basis enables the AER to shape cash flows for specific projects in a manner that is appropriate to compensate a business for its efficient costs over time, as well as incentivise timely and efficient new transmission investment.
- Inserting a set of principles that the AER must have regard to when exercising the power:
  - Provides certainty for TNSPs, by providing them with better information to develop their project plans and funding arrangements ahead of the AER's decision.
  - Enables the reform to be implemented more rapidly (than if the AER were first required to formulate guidance about how it will exercise the power).
- Principle 1 acts as a consumer protection, by requiring the AER to consider the inter-generational equity of a depreciation change, by balancing the increased costs borne by near-term consumers with the benefits of projects proceeding in a timely manner.

- Principle 2 promotes economic efficiency by providing TNSPs with a reasonable opportunity to recover at least their efficient costs, and is consistent with the regulatory approach to setting revenues.
    - The revenue and pricing principles outlined in the NEL make it clear that the "regulated network service provider... should be provided with a reasonable opportunity to recover at least efficient costs".[9]
- Principle 3 promotes flexibility and enables relevant issues that may arise in the future to be considered.
- Facilitating TNSPs to make timely investment decisions through introducing the ability for a TNSP to submit an initial (pre-CPA) request to the AER to develop an issues paper dealing with the depreciation change.
- Enhancing transparency around the AER's decision-making through the requirement of publication of the issues paper.

7. Expected costs, benefits and impacts of the proposed rule

7.1. Expected benefits

The proposed financeability amendments provide a flexible solution to address potential future financeability issues that could threaten the timely delivery of major transmission projects.

These amendments assist in placing downward pressure on electricity prices by better ensuring the timely delivery of transmission infrastructure for consumers.

7.2. Expected costs

Varying depreciation profiles for specific actionable ISP projects will not increase the total costs borne by consumers over the life of an asset. If the variation results in an acceleration of depreciation it could shift more of the burden to near-term consumers. However, the principles would require this to be balanced against the benefits of timely delivery of major projects and the corresponding impact on price, reliability and security.

There will be administrative and compliance costs associated with the proposed rule, but these are not expected to be material. The proposed rule would only require an assessment if requested by the TNSP, it would not be a requirement for every actionable ISP project, which reduces administrative burden for the AER and TNSPs.

7.3. Impacts of the change on those likely to be affected.

The intent of this rule change request is to introduce greater flexibility in the revenue setting framework to enable the AER to address the risk of financeability challenges for actionable ISP projects and improve the timelines of investment decisions for these projects.

The timely investment in and delivery of actionable ISP projects is key in the transition to net zero.

TNSPs may be impacted by:

- Being able to apply to receive an adjusted depreciation profile for actionable ISP projects through the life of an asset to finance efficient capital expenditure associated with such major projects.
- The AER's assessment of their need for a change in the depreciation profile of an actionable ISP project.

[9] Clause 7A(2) of the NEL.

- Being able to request the AER to develop and publish an issues paper that provides an indication of the AER’s thinking on the proposed depreciation change.

Consumers may be impacted by:

- The shifting costs over the life of an asset which could increase the burden to near-term consumers, however, the principles in the rules will require the AER to explicitly consider whether more timely investment decisions offset this cost shifting.
- Minimising bill costs by ensuring the timely delivery of transmission infrastructure by reducing barriers to TNSPs investment decisions.

The reform may also impact the AER through:

- Requirements to follow the principles for assessment outlined in the NER.
- Conducting analysis to vary the depreciation profile for an actionable ISP project on a case-by-case basis.
- The development of guidelines and issues papers.

Attachment A

1 Financeability

6A.2.3 Guidelines

(a) The *AER*:

(1) must make and *publish* the *Shared Asset Guidelines*, the *Capital Expenditure Incentive Guidelines*, the *Expenditure Forecast Assessment Guidelines*, the *Transmission Confidentiality Guidelines*, the *Cost Allocation Guidelines*, the *information guidelines* and the *pricing methodology guidelines* in accordance with the *Rules*; and

(2) may, in accordance with the *transmission consultation procedures*, make and publish guidelines as to any other matters relevant to this Chapter.

(b) A guideline may relate to a specified *Transmission Network Service Provider* or *Transmission Network Service Providers* of a specified class.

(c) Except as otherwise provided in this Chapter, a guideline is not mandatory (and so does not bind the *AER* or anyone else) but, if the *AER* makes a *transmission determination* that is not in accordance with the guideline, the *AER* must state, in its reasons for the *transmission determination*, the reasons for departing from the guideline.

(d) If a guideline indicates that there may be a change of regulatory approach in future *transmission determinations*, the guideline should also (if practicable) indicate how transitional issues are to be dealt with.

(e) Subject to paragraph (f), the *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace a guideline.

(f) The *AER* may make administrative or minor amendments to any guideline without complying with the *transmission consultation procedures*.

(g) This clause 6A.2.3 does not apply to the *Transmission Ring-Fencing Guidelines*.

...

6A.4.2 Contents of revenue determination

(a) A *revenue determination* for a *Transmission Network Service Provider* is to specify, for a *regulatory control period*, the following matters:

(1) the amount of the estimated *total revenue cap* for the *regulatory control period* or the method of calculating that amount;

(2) the *annual building block revenue requirement* for each *regulatory year* of the *regulatory control period*;

(3) the amount of the *maximum allowed revenue* for each *regulatory year* of the *regulatory control period* or the method of calculating that amount;

(3A) the regulatory asset base as at the commencement of the *regulatory control period*;

(4) appropriate methodologies for the indexation of the regulatory asset base;

(5) the values that are to be attributed to the *performance incentive scheme parameters* for the purposes of the application to the *Transmission Network Service Provider* of any *service target performance incentive scheme* that applies in respect of the *regulatory control period*;

(6) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for the purposes of the application to the *Transmission Network Service Provider* of any *efficiency benefit sharing scheme* that applies in respect of the *regulatory control period*;

(6A) how any *capital expenditure sharing scheme*, *small-scale incentive scheme* or *demand management innovation allowance mechanism* is to apply to the *Transmission Network Service Provider*; and

(7) the commencement and length of the *regulatory control period*.

(8) [Deleted]

(a1) A *revenue determination* for a *Transmission Network Service Provider* is also to specify whether depreciation for establishing the regulatory asset base as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure.

(b) Unless otherwise determined by the *AER*:

(1) the *total revenue cap* may not relate to more than one *transmission system* that is owned, controlled or operated by a *Transmission Network Service Provider*; and

(2) there is to be a separate *total revenue cap* for each such *transmission system*.

(c) A *regulatory control period* in respect of a *Transmission Network Service Provider* must be not less than 5 *regulatory years*.

…

6A.5A Capital expenditure incentive mechanisms

(a) The *capital expenditure incentive objective* is to ensure that, where the value of a regulatory asset base is subject to adjustment in accordance with the *Rules*, then the only capital expenditure that is included in an adjustment that increases the value of that regulatory asset base is capital expenditure that reasonably reflects the *capital expenditure criteria*.

(b) The *AER* must, in accordance with the *transmission consultation procedures*, make and *publish* guidelines (the *Capital Expenditure Incentive Guidelines*) that set out:

(1) any *capital expenditure sharing schemes* developed by the *AER* in accordance with clause 6A.6.5A, and how the *AER* has taken into account the *capital expenditure sharing scheme principles* in developing those schemes;

(2) the manner in which it proposes to make determinations under clause S6A.2.2A(a) if the *overspending requirement* is satisfied;

(3) the manner in which it proposes to determine whether depreciation for establishing a regulatory asset base as at the commencement of a *regulatory control period* is to be based on actual or forecast capital expenditure;

(4) the manner in which it proposed to make determinations under clause S6A.2.2A(i) if the *margin requirement* is satisfied;

(5) the manner in which it proposes to make determinations under clause S6A.2.2A(j) if the *capitalisation requirement* is satisfied; and

(6) how each scheme and proposal referred to in subparagraphs (1) to (5), and all of them taken together, are consistent with the *capital expenditure incentive objective*.

(c) There must be *Capital Expenditure Incentive Guidelines* in force at all times after the date on which the *AER* first *publishes* the *Capital Expenditure Incentive Guidelines* under the *Rules*.

...

6A.6.3 Depreciation

(a) The depreciation for each *regulatory year*:

(1) must be calculated on the value of the assets as included in the regulatory asset base, as at the beginning of that *regulatory year*, for the relevant *transmission system*; and

(2) must be calculated:

(i) providing such depreciation schedules conform with the requirements set out in paragraph (b), using the depreciation schedules for each asset or category of assets that are nominated in the relevant *Transmission Network Service Provider's Revenue Proposal*; or

(ii) to the extent the depreciation schedules nominated in the provider's Revenue Proposal do not so conform, using the depreciation schedules determined for that purpose by the *AER* in its final decision on the *Transmission Network Service Provider's* Revenue Proposal.

(b) The depreciation schedules referred to in paragraph (a) must conform to the following requirements:

(1) except as provided in paragraph (c), the schedules must depreciate using a profile that reflects the nature of the assets or category of assets over the economic life of that asset or category of assets;

(2) the sum of the real value of the depreciation that is attributable to any asset or category of assets over the economic life of that asset or category of assets (such real value being calculated as at the time the value of that asset or category of assets was first included in the regulatory asset base for the relevant *transmission system*) must be equivalent to the value at which that asset or category of assets was first included in the regulatory asset base for the relevant *transmission system*; and

(3) the economic life of the relevant assets and the depreciation methodologies and rates underpinning the calculation of depreciation for a given *regulatory control period* must be consistent with those determined for the same assets on a prospective basis in the *transmission determination* for that period.

(c) To the extent that:

(1) an asset (or group of assets) the value of which forms part of the regulatory asset base for a *transmission system* is dedicated to one *Transmission Network User* (not being a *Distribution Network Service Provider*) or a small group of *Transmission Network Users*; and

(2) the value of the assets (or group of assets), as included in the value of that regulatory asset base as at the beginning of the first *regulatory year* of the current *regulatory control period*, exceeds the *indexed amount*, as at the commencement of that *regulatory control period*, of $20 million,

that asset (or group of assets) must be depreciated on a straight line basis over the life at which that asset (or group of assets) was first included in the regulatory asset base for that *transmission system*.

(d) Where an asset (or group of assets) forms part of an *actionable ISP project*, a *Transmission Network Service Provider* may submit a request to the *AER* to approve that the asset (or group of assets) is depreciated on a basis other than on a straight line basis.

(e) A request under paragraph (d) must be made at the same time as submitting an application under clause 6A.8.2(a) in relation to that asset (or group of assets).

(f) In making a determination under paragraph (d), the *AER* must have regard to:

(1) the relative consumer benefits from the provision of *network services* over time;

(2) the capacity of the *network service provider* to efficiently finance its overall regulatory asset base, including efficient capital expenditure; and

(3) any other factors the *AER* considers relevant, having regard to subparagraphs (1) and (2) above.

(g) The *AER* may, in accordance with the *transmission consultation procedures*, develop and *publish* guidelines that set out:

(1) the approach the *AER* proposes to use to make a determination under paragraph (d);

(2) the information the *AER* requires for the purposes of that determination;

(3) the information the *AER* requires for the purposes of developing and publishing the issues paper in accordance with paragraph (h); and

(4) any other matters the *AER* considers appropriate.

(h) A *Transmission Network Service Provider* may, prior to submitting a request under paragraph (d), submit a request (an *initial request*) to the *AER* to develop and *publish* an issues paper that:

(1) provides an indication on whether the asset (or group of assets) should be depreciated on a basis other than on a straight line basis and, if so, may indicate a range of depreciation profiles; and

(2) identifies key matters that the *AER* considers necessary to have regard to in making a determination under paragraph (d) for the asset (or group of assets).

(i) An *initial request* must be made no earlier than 6 months, and no later than 4 months, prior to the *Transmission Network Service Provider* submitting an application under clause 6A.8.2(a) in relation to the relevant asset (or group of assets).

(j) If a *Transmission Network Service Provider* makes an *initial request* under paragraph (h), then, subject to paragraph (l), the *AER* must develop and *publish* an issues paper on the *initial request* within 2 months of receiving the *initial request*.

(k) The *AER* may request from the *Transmission Network Service Provider* additional information or analysis that the *AER* considers reasonably necessary to assist it in *publishing* an issues paper under paragraph (j).

(l) If the *AER* requests additional information or analysis under paragraph (k), then the period of time for *publishing* an issues paper under paragraph (j) is automatically extended by the period of time it takes the *Transmission Network Service Provider* to provide the additional information or analysis to the *AER*.

…

6A.10.1A AER's framework and approach paper

(a) The *AER* must make and publish a document (a *framework and approach paper*) that applies in respect of a *revenue determination* for a matter listed in paragraph (b) in accordance with this clause if:

(1) there is no *framework and approach paper* that applies in respect of that *revenue determination* for that matter; or

(2) there is a *framework and approach paper* that would apply in respect of that *revenue determination* for that matter, but the *AER* has *published* a notice under paragraph (c)(3) stating that it will make an amended or replacement *framework and approach paper* with respect to that matter.

(b) A *framework and approach paper* that applies in respect of a *revenue determination* must set out the *AER*'s proposed approach (together with its reasons for the proposed approach), in the forthcoming *revenue determination*, to the following matters:

(1) the application to the *Transmission Network Service Provider* of any *service target performance incentive scheme*;

(2) the application to the *Transmission Network Service Provider* of any *efficiency benefit sharing scheme*;

(3) the application to the *Transmission Network Service Provider* of any *capital expenditure sharing scheme*;

(4) the application to the *Transmission Network Service Provider* of any *small-scale incentive scheme*;

(5) the application to the *Transmission Network Service Provider* of the *Expenditure Forecast Assessment Guidelines*;

(6) whether depreciation for establishing the regulatory asset base for the relevant *transmission system* as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure in accordance with clause S6A.2.2B; and

(7) the application to the *Transmission Network Service Provider* of any *demand management innovation allowance mechanism*.

...

6A.14 Requirements relating to draft and final

decisions 6A.14.1 Contents of decisions

A draft decision under rule 6A.12 or a final decision under rule 6A.13 is a decision by the *AER*:

(1) on the *Transmission Network Service Provider's* current *Revenue Proposal* in which the *AER* either approves or refuses to approve:

(i) the *total revenue cap* for the provider for the *regulatory control period*;

(ii) the *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period*;

(iii) the values that are to be attributed to the *performance incentive scheme parameters* for any *service target performance incentive scheme* that is to apply to the provider in respect of the *regulatory control period*;

(iv) the values that are to be attributed to the *efficiency benefit sharing scheme parameters* for any *efficiency benefit sharing scheme* that is to apply to the provider in respect of the *regulatory control period*; and

(v) the commencement and length of the *regulatory control period* that has been proposed by the provider,

as set out in the *Revenue Proposal*, setting out the reasons for the decision;

(2) in which the *AER* either:

(i) acting in accordance with clause 6A.6.7(c), accepts the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; or

(ii) acting in accordance with clause 6A.6.7(d), does not accept the total of the forecast capital expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*, in which case the *AER* must set out its reasons for that decision and an estimate of the total of the *Transmission Network Service Provider's* required capital expenditure for the *regulatory control period* that the *AER* is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*;

(3) in which the *AER* either:

(i) acting in accordance with clause 6A.6.6(c) or clause 6A.6.6(c1), accepts the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*; or

(ii) acting in accordance with clause 6A.6.6(d), does not accept the total of the forecast operating expenditure for the *regulatory control period* that is included in the current *Revenue Proposal*, in which case the *AER* must set out its reasons for that decision and an estimate of the total of the *Transmission Network Service Provider's* required operating expenditure for the *regulatory control period* that the *AER* is satisfied reasonably reflects the *operating expenditure criteria*, taking into account the *operating expenditure factors*;

(4) in which the *AER* determines:

(i) whether each of the *proposed contingent projects* (if any) described in the current *Revenue Proposal* are *contingent projects* for the purposes of the *revenue determination* in which case the decision must clearly identify each of those *contingent projects*;

(ii) the capital expenditure that it is satisfied reasonably reflects the *capital expenditure criteria*, taking into account the *capital expenditure factors*, in the context of each *contingent project* as described in the current *Revenue Proposal*;

(iii) the *trigger events* in relation to each *contingent project* (in which case the decision must clearly specify those *trigger events*); and

(iv) if the *AER* determines that such a *proposed contingent project* is not a *contingent project* for the purposes of the *revenue determination*, its reasons for that conclusion, having regard to the requirements of clause 6A.8.1(b);

(5) [**Deleted**]

(5A) in which the *AER* determines how any applicable *capital expenditure sharing scheme*, *small-scale incentive scheme* or *demand management innovation allowance mechanism* is to apply to the *Transmission Network Service Provider*;

(5B) on the *allowed rate of return* for each *regulatory year* of the *regulatory control period*;

(5C) on the *allowed imputation credits* for each *regulatory year* of the *regulatory control period*;

(5D) on the regulatory asset base as at the commencement of the *regulatory control period* in accordance with clause 6A.6.1 and Schedule 6A.2;

(5E) on whether depreciation for establishing the regulatory asset base as at the commencement of the following *regulatory control period* is to be based on actual or forecast capital expenditure;

Note: See clause S6A.2.2B.