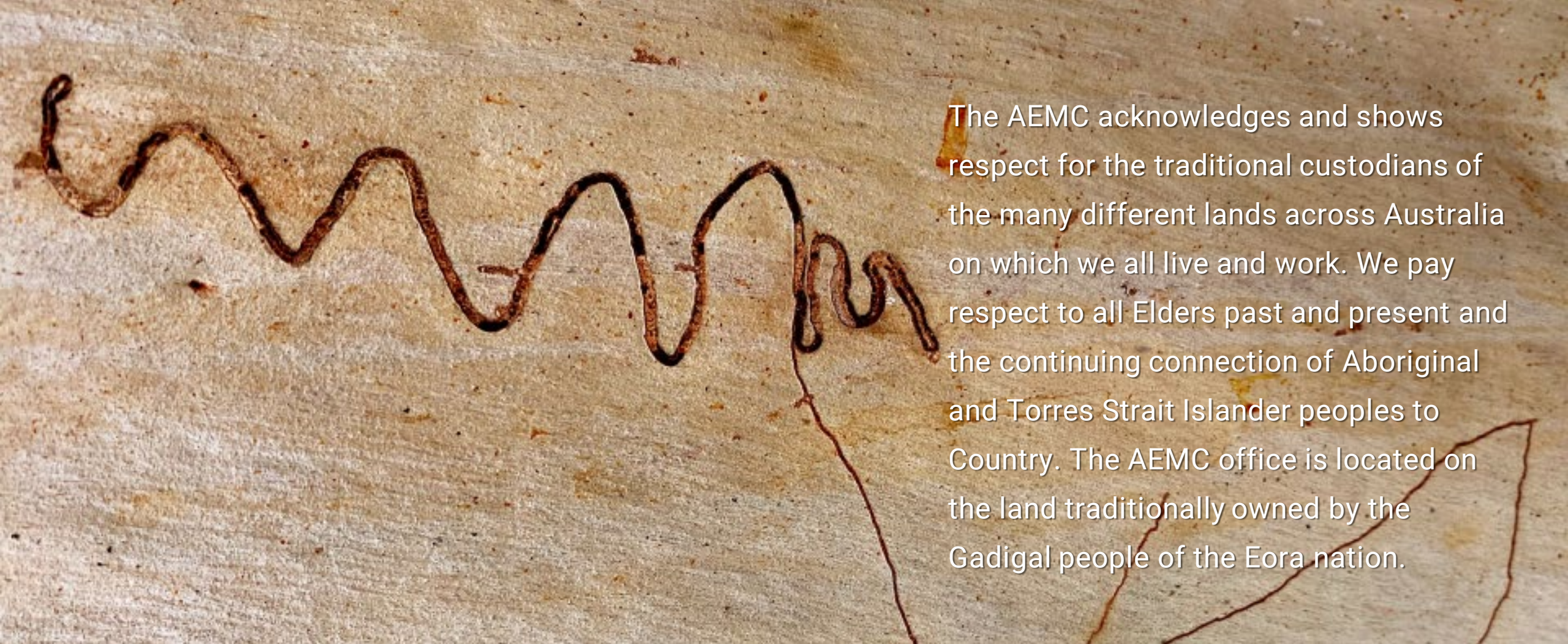


Draft rule determinations on Financeability and Concessional finance

Public forum - 15 December 2023



AEMC



The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

AEMC

ACKNOWLEDGEMENT OF COUNTRY

Introductory remarks

AEMC

Sally McMahon - Commissioner

1	Acknowledgement of country and opening remarks	Sally McMahon
2	Purpose of this forum and housekeeping	Danielle Beinart
3	Draft rule determination for Concessional finance (ERC0349)	Chirine Dada
4	Draft rule determination for Financeability (ERC0348)	Andrew Pirie
5	Q & A session on both rule changes	AEMC
6	Next steps	John Mackay

Purpose of this forum

AEMC

Danielle Beinart

Executive General Manager – Networks & Technical

Housekeeping

- All participants are currently in 'listen-only' mode
 - Moderators can switch your mic/video on if you are invited to speak.
- Asking questions
 - Use the Q&A button on the bottom of your screen
 - Questions will be answered at a dedicated Q&A session
 - We will try to answer all questions, but will prioritise questions with most 'upvotes' first
- Presentations from today have been uploaded to the respective project pages on our website

COMPETITION PROTOCOL

KEY PRINCIPLES



The AEMC is committed to complying with all applicable laws, including the ***Competition and Consumer Act 2010*** (CCA), during this forum. Breaching the CCA can lead to serious penalties for individuals involved in any breach (including large financial penalties and imprisonment for key individuals involved). This protocol governs the way in which discussions will proceed at this forum, and each attendee agrees to adhere to this protocol in order to comply with the CCA.

Each attendee must make an independent and unilateral decision about their commercial positions and approach in relation to the matters under discussion in this forum.

Attendees must not discuss, or reach or give effect to any agreement or understanding which relates to:

- **pricing** for the products and/or services that any attendee supplies or will supply, or the terms on which those products and/or services will be supplied (including discounts, rebates, price methodologies etc)
- **targeting (or not targeting) customers** of a particular kind, or in particular areas
- **tender processes** and whether (or how) they will participate
- any decision by attendees:
 - about the purchase or supply of any products or services that other attendees also buy or sell
 - to not engage with persons or the terms upon which they will engage with such persons (i.e. boycotting); or
 - to deny any person's access to any products, services or inputs they require
- **sharing competitively sensitive information** such as non-publicly available pricing or strategic information including details of customers, suppliers (or the terms on which they do business), volumes, future capacity etc
- **breaching confidentiality obligations** that each attendee owes to third parties.

COMPETITION PROTOCOL

COMMUNICATION AND
MEETING GUIDELINES



Attendees must ensure that all communications (including emails and verbal discussions) adhere to the ***Key Principles***.

This forum will be conducted in accordance with the following rules:

- The agenda for this forum does not include anything that could contravene the Key Principles set out in this protocol.
- We will read and minute the below *competition health warning*:
 - Attendees at this forum must not enter into any discussion, activity or conduct that may infringe, on their part or on the part of other attendees, any applicable competition laws. For example, attendees must not discuss, communicate or exchange any commercially sensitive information, including information relating to prices, marketing and advertising strategy, costs and revenues, terms and conditions with third parties, terms of supply or access.
 - Participating in this forum is subject to you having read and understood the protocol including the Key Principles.
- We will keep accurate minutes of the forum, including details of attendees.
- If something comes up during the forum that could risk contravening any competition laws, attendees should:
 - Object immediately and ask for the discussion to be stopped.
 - Ensure the minutes record that the discussion was objected to and stopped.
 - Raise concerns about anything that occurred in the forum with their respective legal counsel immediately afterwards.
- All attendees understand that any competitively sensitive matters must be subject to legal review before any commitment/agreement can be given.
- Any decision about whether, and on what terms, to engage with customers and suppliers is an independent and unilateral decision of each attendee.

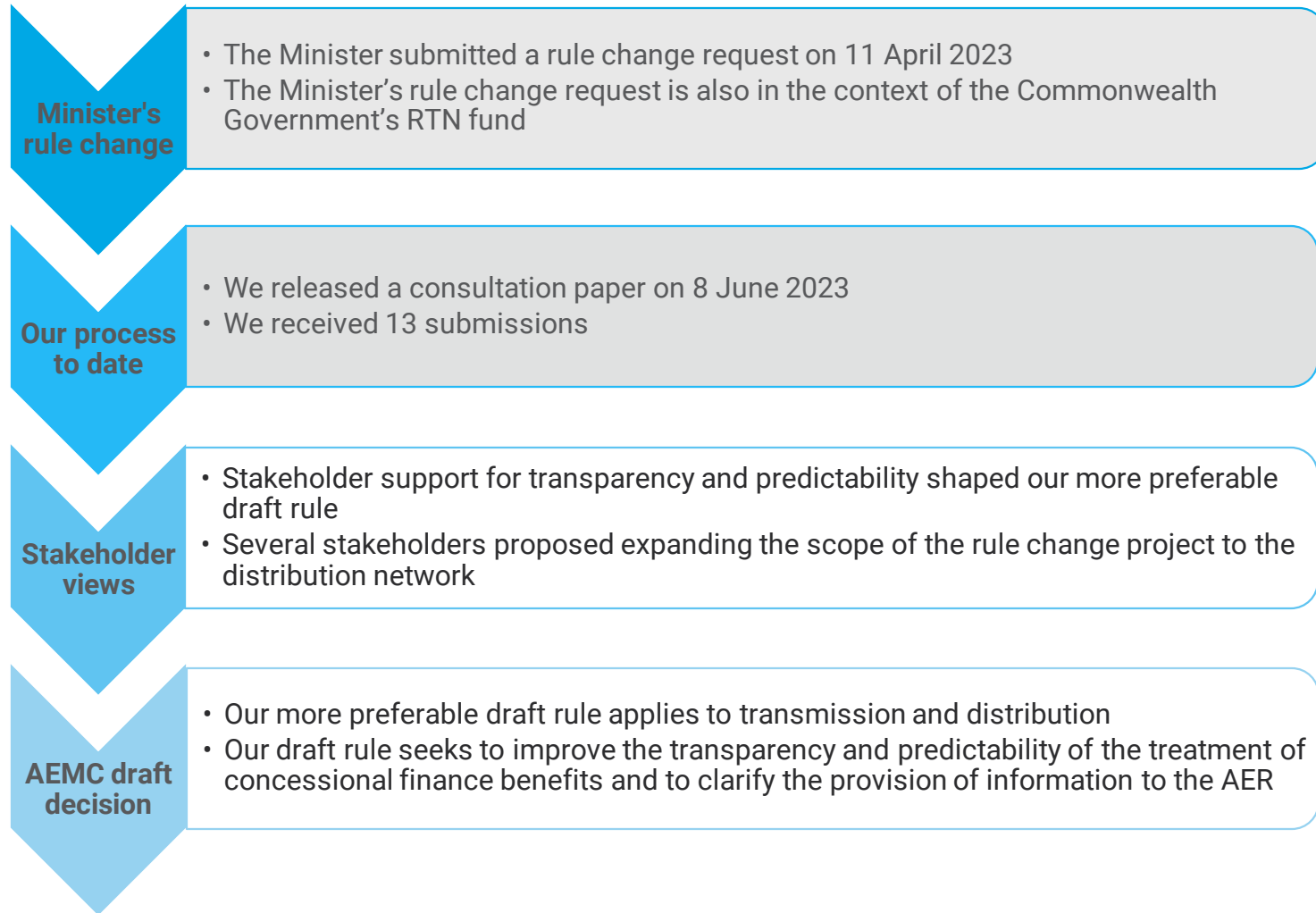
Draft rule determination

AEMC

Sharing concessional finance benefits with consumers

Chirine Dada

The Commission has decided to make a more preferable draft rule to enable the benefits of concessional finance to be shared with consumers



The draft rule facilitates the timely sharing of concessional finance benefits with consumers



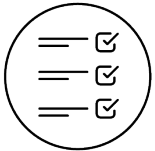
1.

The GFB provides concessional finance to a NSP and there is an agreement to share concessional finance benefits with consumers.



2.

The GFB and NSP provide information about the benefits to be shared and how, as required by our draft rule, in an agreement signed by both parties.



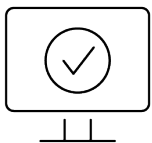
3.

The NSP provides the AER with a copy of the agreement.
The AER may ask for the information it needs from the NSP and GFB.



4.

If the benefits are to be shared with Victorian consumers, for non-contestable projects, the NSP also provides a copy to AEMO.

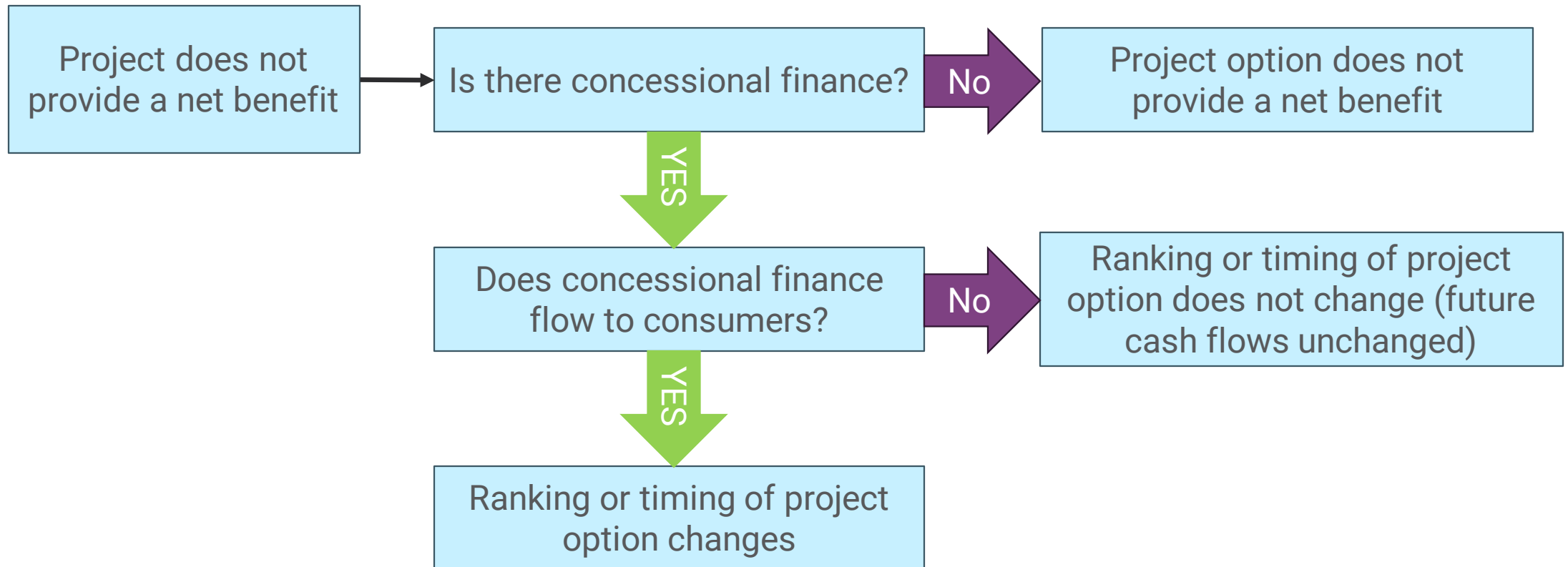


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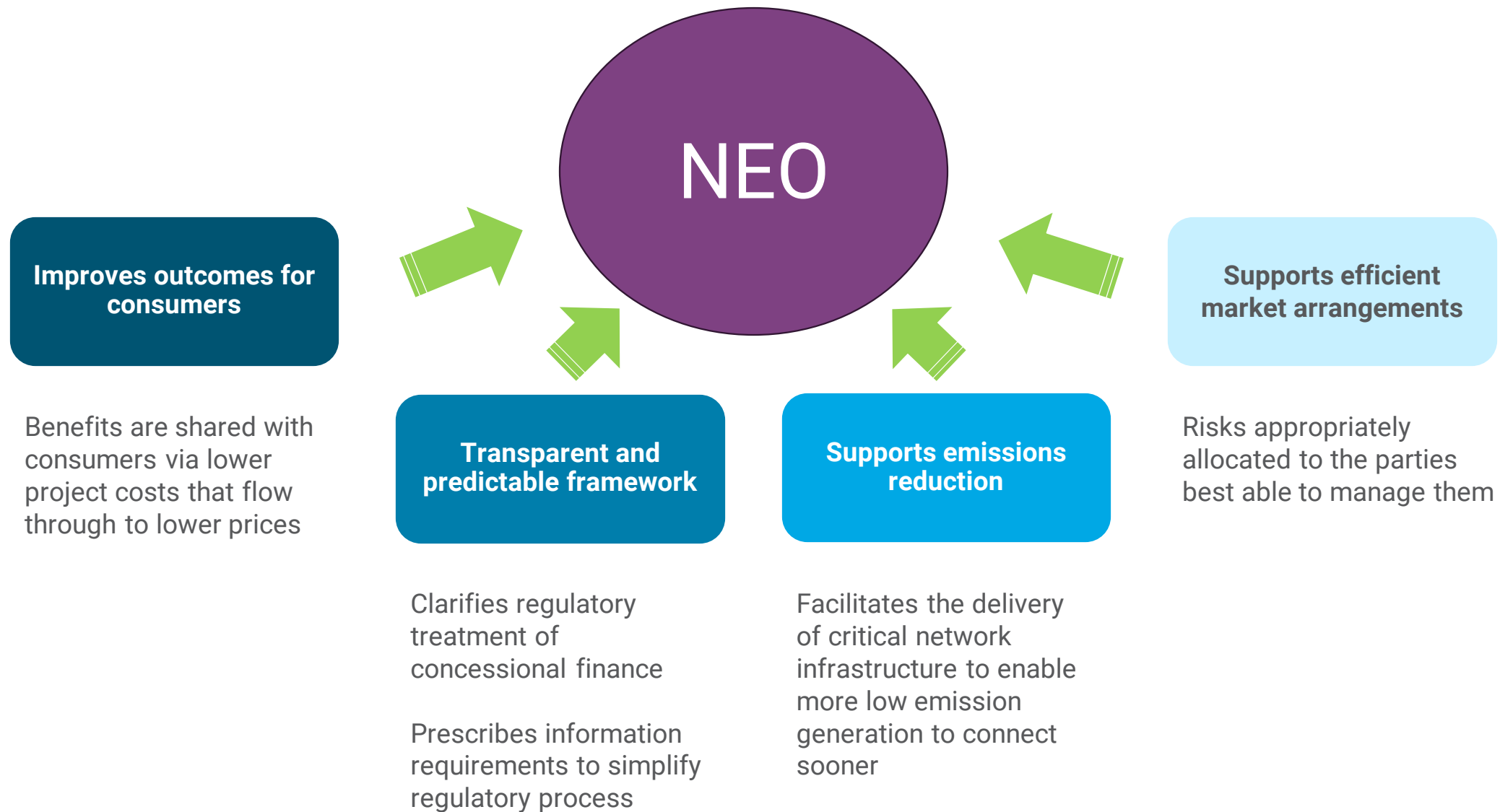
The AER adjusts the RAB and/or MAR accordingly, to reflect the benefits to be shared.

Concessional finance and the economic assessment process (RIT and ISP)

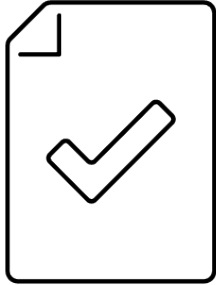
Only concessional finance that flows to consumers provides a net benefit



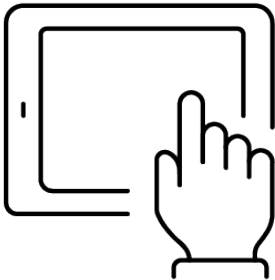
Our more preferable draft rule contributes to better achieving the NEO



We are interested in stakeholder views



We are interested in your views on the draft rule and draft determination and in particular whether we have appropriately captured the relevant information that should be provided in the concessional finance agreement and provided to the AER, to enable the concessional finance benefits to be shared with consumers.



Our draft rule would require the AER to extend the guidance and worked examples in its CBA Guidelines and RIT Application Guidelines to include external funding contributions, and we have recommended that this includes concessional finance.

We are interested in your views on whether this provides certainty about how we expect concessional finance to be treated in the economic assessment of project options.

Draft rule determination

AEMC

Accommodating financeability in the regulatory framework

Andrew Pirie

The Commission has made a more preferable draft rule to support timely investment in and delivery of actionable ISP projects



The problem statement

- The Minister, Energy Networks Australia (ENA) and the AEMC's TPIR Stage 2 Final report raised concerns that could arise for actionable ISP projects because:
 - TNSPs may face challenges in raising finance to proceed with ISP projects, and
 - the existing revenue-setting framework may not be sufficiently flexible to address financeability risks.

Rule change proposals

- To address financeability risks, the following solutions were proposed:
 - The Minister proposed a principles-based approach to assess financeability in the NER
 - ENA proposed a prescriptive financeability formula in the NER.

Our process to date

- We released a consultation paper on 8 June 2023.
- We consolidated the Minister and ENA's rule change requests on 6 July 2023.
- We received 19 submissions on the consultation paper.

Our draft rule

- The scale of transmission investment required, coupled with the speed of the energy transition, presents challenges for the existing regulatory framework.
- There is a risk that TNSPs face challenges raising efficient finance to deliver actionable ISP projects. To address this risk, we have introduced greater flexibility in the revenue setting framework in the NER.

Our draft rule addresses the risk that TNSPs may not be able to finance, and so deliver, actionable ISP projects



1. Allows a TNSP to submit a financeability request to the AER at the same time as submitting a request to amend its revenue determination (a contingent project application other than for early works).
2. If a TNSP submits such a request, the AER is required to assess whether the TNSP has a financeability issue resulting from the delivery of an actionable ISP project by applying a financeability test set out in the NER. This is transparent and predictable.
3. If a TNSP has a financeability issue, the AER is required to adjust the TNSP's cashflows.
4. Requires the AER to set out further details of how it would determine the TNSP's financeability position in Financeability Guidelines.
5. Applies additional rules to TNSPs that have received concessional finance, where the full benefits of concessional finance are not passed through to consumers.

TNSPs would be able to apply for a financeability test from the start date of the final rule (if made).

The AER must apply the financeability test to assess if there is a financeability issue

- The **financeability test** in the NER determines whether or not a TNSP has a financeability issue.
- A TNSP has a financeability issue if it is made worse off as a result of the actionable ISP project, as shown in this figure.

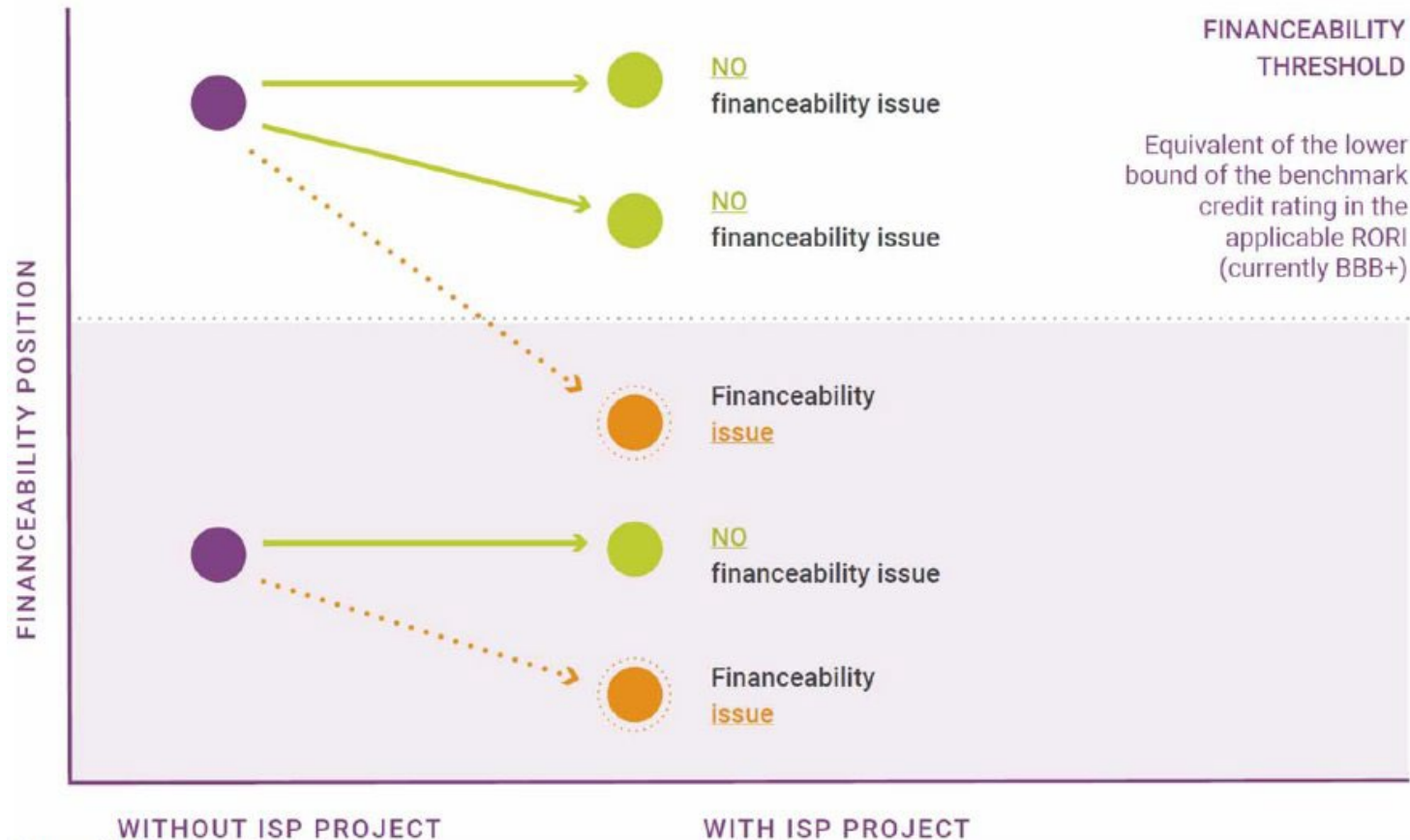
A TNSP's **financeability position** is based on its maximum allowed revenue from the PTRM:

- for its regulated business without the ISP project vs its regulated business with the ISP project;
- using the benchmark gearing ratio in the applicable Rate of return instrument (RORI).

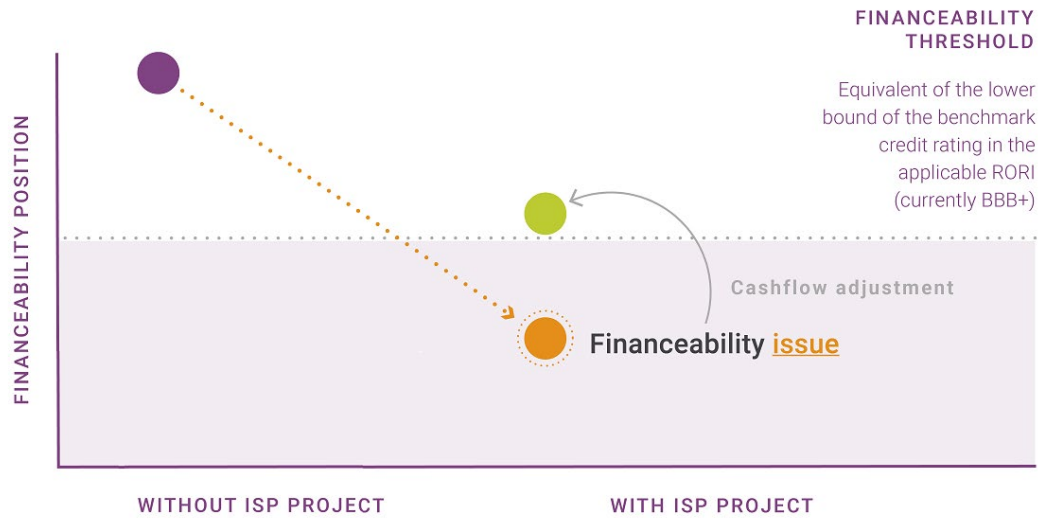
The **financeability threshold** is the equivalent of the benchmark credit rating in the applicable RORI.

The AER must set out in Guidelines the financial metrics and metric weightings to determine the financeability position and financeability threshold.

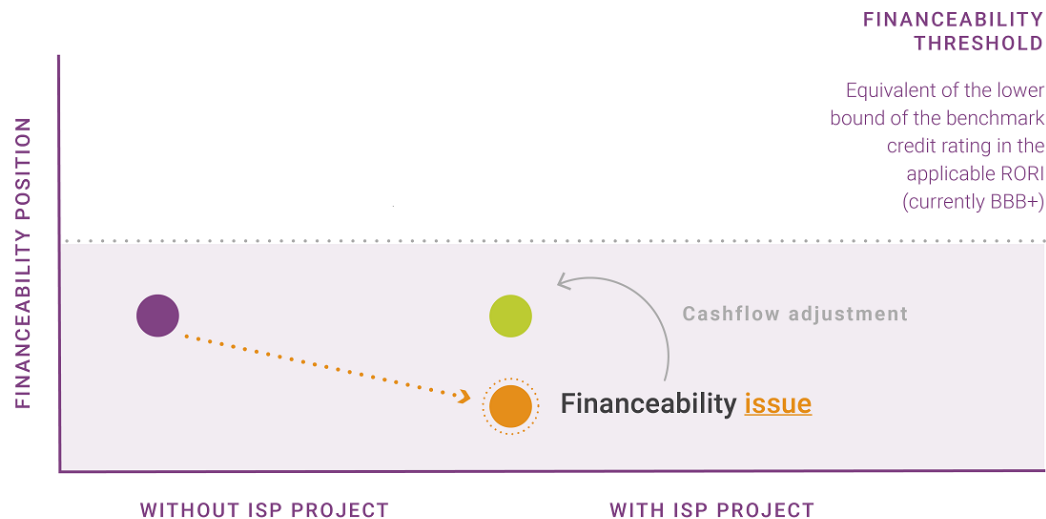
The financeability threshold is the same when applied before and after the ISP project.



If there is a financeability issue, the AER must bring forward cashflows to address the issue



Source: AEMC



Source: AEMC

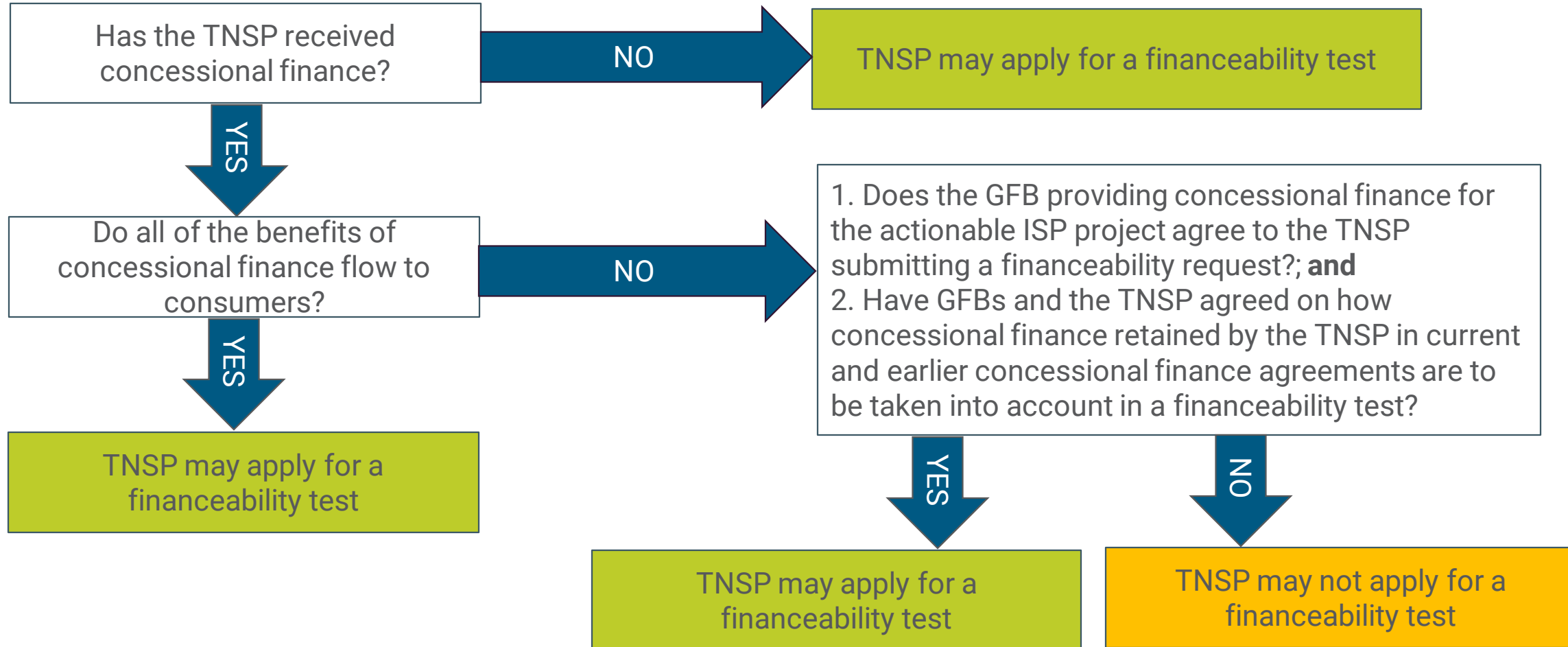
If a TNSP has a financeability issue, the AER must adjust the TNSP's cashflows as shown in these two figures.

The AER may bring forward cashflows using one or more of the following methods:

- **A new method under the draft rule:** depreciate assets of an actionable ISP project using a profile that it considers appropriate (e.g. a profile other than straight-line depreciation / shorter asset lives)
- **Existing mechanisms under the current NER:**
 - as incurred recovery of depreciation prior to commissioning;
 - revenue smoothing within the regulatory control period, if available.

TNSPs that have received concessional finance have additional eligibility requirements to apply for a financeability test

The draft rule prevents TNSPs from benefitting from concessional finance and a cashflow adjustment, unless the GFB agrees.



No changes are needed to allow TNSPs to recover depreciation of biodiversity offset costs as incurred. The AER may clarify its approach to depreciation in a guideline.

The Minister suggested that the NER be amended so the AER has the discretion to depreciate biodiversity offset costs as incurred.

The Minister proposed that the AER develop guidelines to explicitly outline how and when depreciation is expected to be applied for different asset classes, including biodiversity offsets.

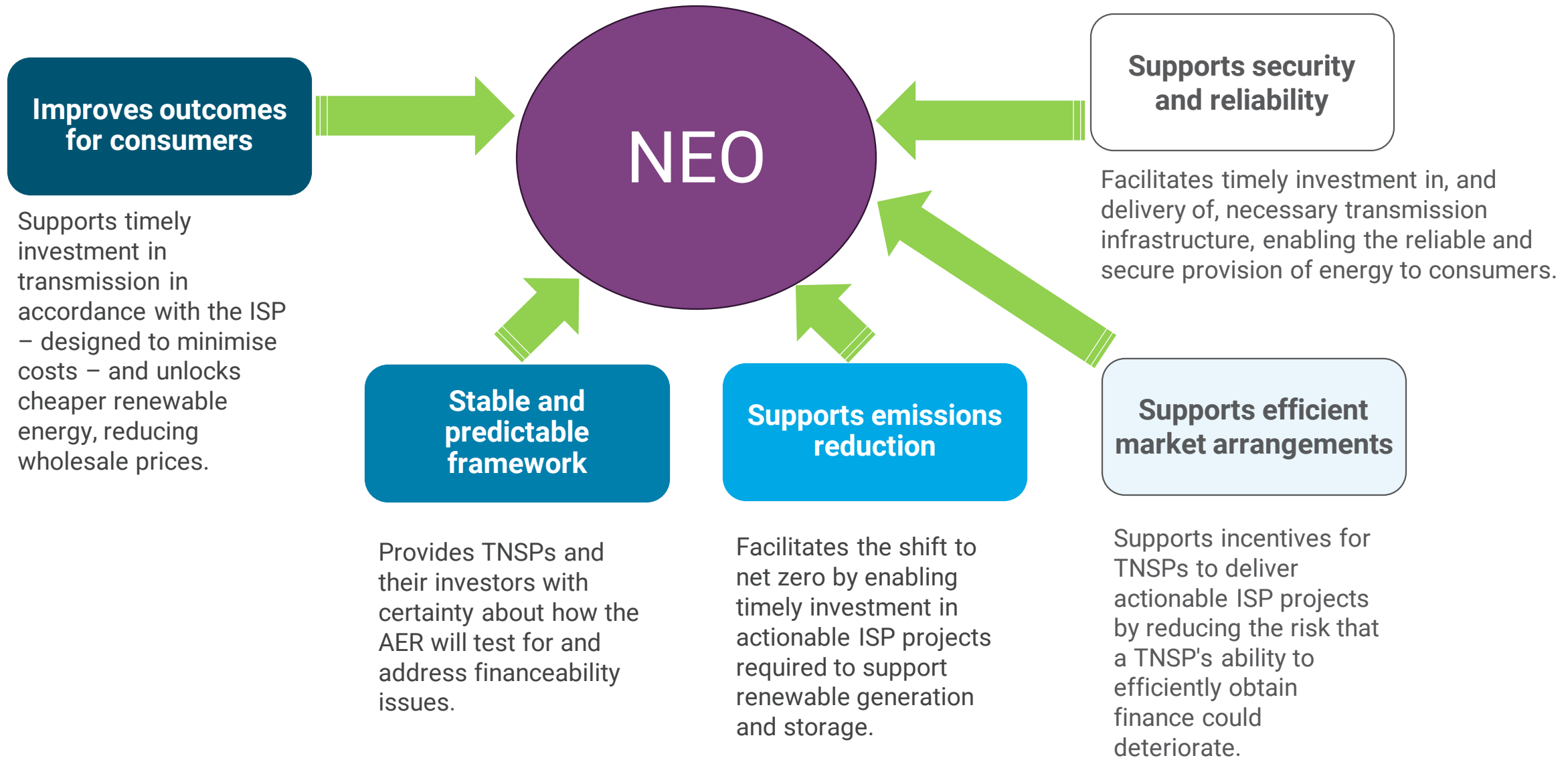
The NER already allows the AER to depreciate transmission assets on an as incurred basis, including for ISP projects.

- Currently TNSP's assets must be depreciated based on schedules that use a profile that reflects the nature of the assets or category of assets over their economic life.
- Currently TNSP assets are depreciated by class in the AER's PTRM.

The Commission does not consider any NER changes are required to allow for the recovery of depreciation on an as incurred basis for biodiversity offsets.

The Commission considers there would be benefit in the AER clarifying its approach to depreciation in a guideline, if it chooses to.

Our more preferable draft rule contributes to better achieving the NEO



Q & A

Concessional finance draft rule determination

Financeability draft rule determination



AEMC

Timeline and next steps for the Financeability (ERC0348) and Concessional finance (ERC0349) rule changes

14 December
2023



Draft rule
determinations

January and
February 2024



Stakeholders may
contact the AEMC
to further discuss
the draft rule
determinations.

8 February
2024



Stakeholder
submissions due
on draft rule
determinations for
ERC0348 and
ERC0349.

AEMC



Keep in touch

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