Australian Government

Department of Climate Change, Energy, the Environment and Water

Rule Change Request

Ensuring consistent stakeholder engagement for ISP projects

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. Background

2.1. AEMC Transmission Planning and Investment Review

The AEMC's Transmission Planning and Investment Review (the Review) considers how to ensure the regulatory framework supports the timely and efficient delivery of major transmission projects, while ensuring investment in these projects are in the long-term interests of consumers.

Stage 2 of the review, which focused on near term solutions and reducing uncertainty for Transmission Network Service Providers (TNSPs), included recommendations to provide greater clarity around social licence activities in the Regulatory Investment Test for Transmission (RIT-T) for actionable and future Integrated System Plan (ISP) projects.

The Review recommended that the National Electricity Rules (NER) be amended to ensure that expectations on TNSPs to engage and consult communities and other affected stakeholders at key points in the planning process are consistent and clear for all ISP projects.

Following discussions between the Commonwealth and AEMC, the Commonwealth has agreed to submit a rule change request and associated draft rule to implement the AEMC's recommended social licence reforms.

The Commonwealth proposes the AEMC consider this rule change as having been adequately publicly consulted on through the Transmission Planning and Investment Review.

3. Statement of Issue

3.1. Improve social licence outcomes by clarifying expectations for TNSP engagement with communities and other stakeholders affected by ISP transmission projects

Social licence, for these purposes, refers to the activities undertaken by TNSPs[1] for the RIT-T to build and maintain broad community acceptance of the development and operation of major transmission projects. Obtaining and maintaining social licence is critical to the timely and efficient delivery of projects identified in the ISP.

This rule change request seeks to improve social licence outcomes by clarifying who TNSPs should consult and when. It also seeks to specify a set of minimum community engagement expectations in the National Electricity Rules (NER) with which TNSPs must comply.

Ineffective community engagement by TNSPs can result in failure to obtain a 'social licence', risking timely and efficient delivery of transmission projects. Effective engagement ensures issues around transmission route selection are identified and managed early before key decisions are made, and that

[1] Including the Australian Energy Market Operator - Victorian Planning

more accurate costs are reflected in a RIT-T's cost assessment of an actionable ISP project. Currently, there are inconsistencies in the NER in relation to requirements for TNSPs to engage with local communities and other affected stakeholders at key points in the planning process for major transmission projects.

The Review acknowledged that:

- TNSPs, local communities and other stakeholders affected by major transmission projects are critical partners in the delivery of those projects.
- Building and maintaining trust between stakeholders is critical if TNSPs are to deliver projects efficiently and on time.

Local communities and other stakeholders include local councils, local community members and other relevant community stakeholders wishing to express their views about the development of a major transmission project identified through the ISP.

The Review also recognised that:

- The NER provides many opportunities for community stakeholders to engage in the planning and regulatory processes but does not explicitly recognise the value of early engagement with these stakeholders in the planning process for ISP projects, other than for Renewable Energy Zones (REZs).
- There is misalignment in and between the NER and the Australian Energy Regulator's (AER) various guidelines regarding whether and when TNSPs should engage with stakeholders.

4. Description of the proposed rule change

This is a request to amend the NER to implement recommendations in the Review's Stage 2 Final Report. The proposed amendments, which were prepared by the AEMC and accompanied the Stage 2 Final Report, are attached to this request (Attachment A).

The proposed amendments will:

- Expand the definition of 'preparatory activities' to include engagement and consultation with local councils, local community members, members of the public and any other relevant stakeholders wishing to express their views (proposed paragraph (e) in the definition of 'preparatory activities' in cl 5.10.2).
- Expand the definition of 'interested party' as it applies to the existing RIT-T consultation procedures for actionable ISP projects to include local councils, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of the project (proposed cl 5.15.1(b)).
- Require TNSPs to comply with a set of 'community engagement expectations' when preparing a RIT-T for an actionable ISP project and engaging with local communities and other stakeholders as part of preparatory activities for future and actionable ISP projects (proposed cl 5.10.2, cl 5.16A.4(r), 5.24.1(e)).
- Insert a definition of 'community engagement expectations' into the NER that is comparable to the existing expectations placed on jurisdictional planning bodies for REZs (proposed cl 5.10.2))

In addition to the changes proposed in the AEMC's stage 2 final report, the following amendments will also support more consistent community and stakeholder engagement:

- Expand the reference to 'council and stakeholder engagement' to include local council, local community members, members of the public and any other relevant stakeholders. This maintains consistency between the rules and the proposed new definition of 'preparatory activities' (proposed cl 5.24.1(d)(3)(c), 5.24.1(e)).
- Extending the new definition of interested party (proposed cl 5.15.1(b)) to the RIT-T dispute process (Cl 5.16B).

To ensure smooth implementation of these amendments, there will be transitional arrangements that:

- Allow a TNSP that has commenced preparatory activities for an actionable ISP project or future ISP project to choose whether the proposed social licence amendments to the definition of 'preparatory activities' apply to the project (proposed cl 11.[xxx].2.4)
- Allow a TNSP that has commenced community consultation for an actionable ISP project or future ISP project to choose whether the proposed social licence amendments to cl 5.16A.4 apply to the project (proposed cl 11.[xxx].2.5)

5. How the proposed rule change will address the issue

The proposed amendments are expected to improve TNSP and community engagement and give communities more confidence and trust in the consultation process through the following:

- Making clear the information a TNSP must provide communities and stakeholders
- Making clear the expectations for a TNSP's engagement with communities and stakeholders
- Requiring TNSPs to better articulate the benefits and costs of ISP projects
- Improving the transparency of a TNSP's engagement with communities and stakeholders
- Ensuring consistency between the NER and the AER's various stakeholder engagement guidelines
- Ensuring TNSP community and stakeholder engagement is consistent for all actionable and future ISP projects.

Sections 6 and 7 give further detail.

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

The National Electricity Objective (NEO), 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 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.

The proposed social licence amendments advance the NEO through supporting efficient and robust decision-making for all parties. Decision-making will be improved through the provision of clear guidance and increased transparency as to when engagement with local communities will occur, and who will be consulted.

Clear guidance on social licence activities in the NER will help to support the efficient and timely delivery of actionable and future ISP transmission projects. This will, alongside additional guidance from the AER, increase transparency for affected parties. An aim of the AER and NER's additional guidance is to reduce uncertainty for local communities and other affected stakeholders. Making TNSP social licence activities consistent for all ISP projects:

- Removes confusion around engagement for the TNSPs, the AER, communities, and other stakeholders
- Supports efficient decision-making by TNSPs
- Improves regulatory certainty.

7. Expected costs, benefits and impacts

7.1. Expected benefits

As noted in the Review, meaningful, early, high quality engagement with local communities and other stakeholders has several benefits including:

- Improves stakeholder and community understanding of the costs and risks of a major transmission project.
- Facilitates understanding of any community concerns, including around route selection by affected stakeholders, which can inform the identification and management of risk.
- Provides opportunities to identify and assess whether project options (including credible options for assessment in the RIT-T) are likely to be able to be delivered in time to meet the need, particularly where there are community concerns.
- Provides opportunities for the preferred option to be designed with the benefit of local community input.
- Provides TNSPs with opportunities to address or manage concerns raised and demonstrate to communities how it has taken their concerns and feedback into account.
- Community acceptance will help a TNSP deliver a project on time and within budget.

7.2. Expected costs

The proposed amendments are not expected to impose any significant new costs on TNSPs or consumers.

It is understood that many TNSPs are already engaging with local communities. The purpose of this rule change request is to ensure consistency in the nature, timing and comprehensiveness of this engagement. Any additional costs in engagement should be offset by improved timeliness of delivery of ISP projects.

7.3. Expected impacts

A TNSP's community engagement activities may be impacted by the expanded definitions of 'preparatory activities' and 'interested party'. Additionally, TNSPs will be impacted by needing to comply with a set of 'community engagement expectations' specified in the NER.

Local communities and other stakeholders affected by a major ISP transmission project will be positively impacted through better TNSP consultation.

The AER will have greater clarity for developing associated guidance and assessing the efficiency of a TNSP's costs for social licence activities.

Attachment A

Social Licence

…

5.10.2 Definitions

In this Part D and schedules 5.8, 5.9 and 5.4A:

…

preparatory activities means activities to design and to investigate the costs and benefits of *actionable ISP projects*, *future ISP projects* and REZ stages (as applicable), including:

(a) detailed engineering design;

(b) route selection and easement assessment work;

(c) cost estimation based on engineering design and route selection;

(d) preliminary assessment of environmental and planning approvals; and

~~(e) council and stakeholder engagement,~~

~~which are undertaken prior to the identification of the *preferred option* for the relevant project or stage.~~

(e) engagement with local council, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of the *actionable ISP project*, *future ISP project*, or project within a REZ stage, in accordance with the *community engagement expectations*.

…

community engagement expectations means ensuring that:

(a) stakeholders receive information that is clear, accurate, relevant and timely;

(b) stakeholders have sufficient opportunity to consider and respond to the information provided;

(c) consultation materials and methods of communication tailored to the needs of different stakeholders are used; and

(d) the stakeholders' role in the engagement process is clearly explained to them, including how their input will be taken into account.

…

10. Glossary

…

community engagement expectations

Has the meaning given to it in clause 5.10.2.

...

5.15.1 Interested parties

(a) In clauses 5.16.4, 5.16A.4, rule 5.16B and clauses 5.17.4 and 5.17.5, *interested party* means a person including an end user or its representative who, in the AER's opinion, has the potential to suffer a material and adverse NEM impact from the investment identified as the preferred option in the project assessment conclusions report or the final project assessment report (as the case may be).

(b) For the purpose of the *regulatory investment test for transmission* for an *actionable ISP project*, an *interested party* includes a local council, local community member, member of the public and any other relevant stakeholder wishing to express their views about the development of the *actionable ISP project*.

5.16A.4 Regulatory investment test for transmission procedures

Project assessment draft report

(a) If a *Transmission Network Service Provider* is identified as a *RIT-T proponent* in an *Integrated System Plan* for an *actionable ISP project*, then that *Transmission Network Service Provider* is the *RIT-T proponent* for that *RIT-T project* and must apply the *regulatory investment test* for transmission to, and consult all *Registered Participants*, *AEMO* and *interested parties* on, that *RIT- T project* in accordance with this clause 5.16A.4.

...

(c) The *RIT-T proponent* must prepare a report in accordance with paragraphs (d) to (h) (*project assessment draft report*) and publish it by the date specified in the *Integrated System Plan* for that *RIT-T project* or such longer time period as is agreed in writing by the *AER* and make that report available to all *Registered Participants*, *AEMO* and *interested parties*.

...

(f) The *RIT-T proponent* must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the proposed *preferred option* presented, and the issues addressed, in the *project assessment draft report*.

...

(h) Within 4 weeks after the end of the consultation period required under paragraph (g), at the request of an *interested party*, a *Registered Participant* or *AEMO* (each being a relevant party for the purposes of this paragraph), the *RIT-T proponent* must meet with the relevant party if a meeting is requested by two or more relevant parties and may meet with a relevant party if after having considered all submissions, the *RIT-T proponent*, acting reasonably, considers that the meeting is necessary.

Project assessment conclusions report

(i) As soon as practicable after the end of the consultation period on the *project assessment draft report* referred to in paragraph (g), the *RIT-T proponent* must, having regard to the submissions received, if any, under paragraph (f) and the matters discussed at any meetings held, if any, under paragraph (h), prepare and make available to all *Registered Participants*, *AEMO* and *interested parties* and *publish* a report (the *project assessment conclusions report*).

…

Consultation with communities

(r) To the extent that consultations under paragraphs (a) and (f) include engagement with *interested parties* as defined in clause 5.15.1(b), that engagement must be undertaken in accordance with the *community engagement expectations*.

5.22.6 Content of Integrated System Plan

…

Preparatory activities

(c) An *Integrated System Plan* may specify whether preparatory activities must be carried out for *future ISP projects* and the timeframes for carrying out preparatory activities.

(d) A *Transmission Network Service Provider* must:

~~(1)~~ in the case of an *actionable ISP project* for which preparatory activities have not yet commenced, commence preparatory activities as soon as practicable; and

~~(2)~~ in the case of a *future ISP project*, if the *Integrated System Plan* provides that preparatory activities must be undertaken for that project, commence preparatory activities in accordance with the timeframes specified in the *Integrated System Plan* for that project,

provided that where preparatory activities are required to be undertaken pursuant to clause 5.24.1(b)(2), a *jurisdictional planning body* must ensure that preparatory activities are commenced in accordance with the timeframes described in subparagraph (1) or (2) (as applicable).

5.24.1 REZ design reports

(d) Subject to paragraph (e), in preparing a *REZ design report*, the relevant *jurisdictional planning body* must:

(1) ensure that a public consultation is conducted with the following stakeholders:

(A) interested parties wishing to register their interest in developing on or more projects in the REZ; and

(B) local council, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of projects within the REZ; and

(2) prepare a draft of the *REZ design report* and, over a period of no less than six weeks; invite the stakeholders described at subparagraph (1) to make written submission on the draft *REZ design report*;

(3) take into account the following, a summary of which must be included

in the *REZ design report*:

(A) the results of the public consultation undertaken in accordance with subparagraph (1);

(B) any written submissions received under subparagraph (2);

(C) the results of any ~~council and stakeholder~~ engagement with local council, local community members, members of the public and any other relevant stakeholders undertaken as part of preparatory activities pursuant to paragraph (b)(2)(i);

(e) In undertaking any public consultation pursuant to paragraph (d)(1), seeking written submissions in accordance with paragraph (d)(2) and undertaking ~~the council and stakeholder~~ engagement with local council, local community members, members of the public and any other relevant stakeholders as part of preparatory activities pursuant to paragraph (b)(2)(i), the *jurisdictional planning body* must ~~ensure that:~~ do so in accordance with the *community engagement expectations*.

(1) ~~stakeholders receive information that is clear, accurate, relevant and timely;~~

(2) ~~stakeholders have sufficient opportunity to consider and respond to the information provided;~~

(3) ~~targeted consultation materials, and methods of communication tailored to the needs of different stakeholders, are used; and~~

(4) ~~stakeholders' role in the engagement process is clearly explained to them, including how their input will be taken into account~~

4 Transitional provisions

11.[xxx].1.1 Definitions

For the purposes of this Part [XX]:

Amending Rule means the National Electricity Amendment ([TPIR Stage 2]) Rule.

commencement date means the date on which the Amending Rule commences operation.

11.[xxx].2.2 Existing actionable ISP projects prior to the clause 5.16A.5 stage

(a) This clause 11.[xxx].2 applies if, at the commencement date, for an existing *actionable ISP project* the *RIT-T proponent* has requested written confirmation from *AEMO* under clause 5.16A.5(b).

(b) For an existing *actionable ISP project* referred to in clause 11.xxx.2.2(a),

rule
5.16A continues to apply as if the Amending Rule had not been made.

11.[xxx].2.3 Cost Benefit Analysis Guidelines

(a) Within 12 months after the commencement date, the *AER* must update and *publish* on its website the *Cost Benefit Analysis Guidelines* required under clause 5.22.5 to comply with the requirements set out in clause 5.16A.2(c)(4), and in doing so must comply with the *Rules consultation procedures*.

(b) If, prior to the commencement date, and for the purposes of updating the *Cost Benefit Analysis Guidelines* in anticipation of the Amending Rule, the *AER* undertook consultation or steps equivalent to that as required in the *Rules consultation procedures*, then that consultation or steps undertaken is taken to satisfy the equivalent consultation or steps under the *Rules consultation procedures*.

11.[xxx].2.4 Preparatory activities

(a) This clause 11.[xxx].2.4 applies if, at the commencement date, for an existing *actionable ISP project* or a *future ISP project*, the *Transmission Network Service Provider* has commenced the *preparatory activities* referred to in clause 5.22.6(d).

(b) For an existing *actionable ISP project* or *future ISP project* referred to in clause 11.xxx.2.4(a), the definition of *preparatory activities* continues to apply as if the Amending Rule had not been made, unless the *Transmission Network Service Provider* elects for the Amending Rule to apply.

11.[xxx].2.5 Community engagement expectations

(a) This clause 11.[xxx].2.5 applies if, at the commencement date, for an existing *actionable ISP project* the *Transmission Network Service Provider* has commenced the consultation referred to in clauses 5.16A.4(a) and (f).

(b) For an existing *actionable ISP project* referred to in clause 11.xxx.2.5(a), clauses 5.16A.4(a) and (f) continue to apply as if the Amending Rule had not been made, unless the *Transmission Network Service Provider* elects for the Amending Rule to apply.

(c) If the *Transmission Network Service Provider* makes this election then it must confirm this in the project assessment *draft report* or *project assessment conclusions report* as relevant.

Australian Government

Department of Climate Change, Energy, the Environment and Water

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.

[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.

---

[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.

Subject: AEMC/AER Discussion - Financeability rule change
Location: Microsoft Teams Meeting

Start: 3/23/2023 2:00 AM
End: 3/23/2023 2:30 AM
Show Time As: Busy

Recurrence: (none)

Meeting Status: Organizer

Organizer: [redacted]
Required Attendees: [redacted]; [redacted]; [redacted]; [redacted]
Optional Attendees: [redacted]; [redacted]; [redacted]; [redacted];
[redacted]

Hi all,

Setting up a short time to discuss a few aspects of the financeability rule change, namely:

- AER views in relation to the depreciation of biodiversity assets
- Clarify the nature of the financeability test referred to in the AER rate of return

Look forward to speaking then.

[redacted]

Microsoft Teams meeting

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Alternate VTC instructions

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From: [redacted]
Sent: Thursday, March 23, 2023 4:22 PM
To: [redacted]
CC: Danielle Beinart; [redacted]
Subject: Possible project names for potential rule change on return on debt
Attachments: [redacted]

Hi [redacted]

Thanks for the chat about setting up a new project code for the possible rule change from TG or ENA on return on debt. [redacted]

Danielle has recently spoken with [redacted] and we understand that TG or the ENA still intend to submit both rule changes. We would likely incorporate the first rule change on the Financeability formula into DCCEEW's Financeability rule change.

Possible names for the return on debt rule change project could include the following, or other names Danielle or [redacted] may have:

- Adjusting return on debt to support ISP financing
- Return on debt revenue adjustment to support ISP financing

Cheers
[redacted]

From: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Sent: Friday, 10 March 2023 2:07 PM
To: [redacted] <[redacted]@aemc.gov.au>; [redacted]@aemc.gov.au>; [redacted]@aemc.gov.au>; [redacted]@aemc.gov.au>
Subject: [redacted]

[redacted]

[redacted] – should I send an email linking you with [redacted] and [redacted]

Cheers
Danielle

From: [redacted]@transgrid.com.au>
Sent: Friday, 10 March 2023 11:28 AM
To: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Cc: [redacted]@hsf.com>; [redacted]@hsf.com>; [redacted]@transgrid.com.au>
Subject: [redacted] - [redacted]

Hi Danielle

Hope you're well.

Further to your meeting with [redacted] yesterday, our legal advisors ([redacted] from HSF) would be pleased to meet with the AEMC's lawyers on the cost of debt allowance aspect of a financeability rule change. [redacted] (copied in) are available on Monday except 11-12 and 3-4.

[redacted]

Feel free to let me know if you have any queries.
Cheers,
[redacted]

[redacted]
Senior Manager Policy Reform Office | Community and Policy

Transgrid | 180 Thomas Street, Sydney, NSW, 2000
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Transgrid

We acknowledge the Aboriginal and Torres Islander people as the Traditional Custodians of the land which we provide our services. We pay our respects to their Elders, past and present.

Data Classification: *Sensitive*

From: [redacted]
Sent: Thursday, March 23, 2023 6:22 PM
To: Danielle Beinart; Funston, Kris; [redacted]@aemo.com.au; [redacted]
CC: [redacted] [redacted]@aemo.com.au; [redacted]@aemo.com.au; [redacted]@esb.org.au; [redacted] Violette.Mouchaileh@aemo.com.au; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]
Subject: RE: AEMC | TPIR Market Body Advisory Group meeting
Attachments: TPIR-MBAG-27 March 2023.pdf

Good evening everyone,

We are looking forward to speaking with you on Monday at MBAG.

The focus for this month's meeting will be on the Economic Assessment Process workstream.

The purpose of the meeting is to:

- Provide an update and seek feedback on the direction for further progressing the EAP reform package.
- We would like to discuss:
  - Our proposed narrative and content of the EAP chapter in the TPIR final report, and
  - Our indicative timeline to progress reform.

Please let me know if there is anything else you would like to raise prior to the meeting.

Kind regards,
[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000.

The Gadigal people of the Eora nation are the traditional owners of the land on which AEMC's office is located.

Market bodies advisory group

Transmission Planning and Investment Review

27 February 2023

AEMC

AEMC

ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the Traditional Custodians of country throughout Australia and recognise their continuing connection to land, waters and culture. We pay respect to their Elders past, present and emerging, and extend that respect to all Aboriginal and Torres Strait Islander peoples here today.

Purpose of today's meeting

- Provide an update and seek feedback on the direction for further progressing the EAP reform package.
- We would like to discuss:
  - Our proposed narrative and content of the EAP chapter in the TPIR final report, and
  - Our indicative timeline to progress reform.

Narrative and content of the EAP chapter

Narrative on EAP2: Our EAP2 proposal is our long-term vision for reform of the EAP

EAP2 is consistent with the Review's objectives	**More timely project delivery** Moving to a least-cost assessment would streamline the EAP, facilitating earlier delivery of projects that benefit consumers.	**Consumer interest** Rigour is maintained by improving collaboration between AEMO and TNSPs through strengthening the ISP and joint planning arrangements. This reinforces the intended central role of the ISP.	**Supporting social licence** TNSPs would feed social licence considerations into the development of the ISP and refine the detailed design and costs of ISP identified credible options under a least cost assessment, taking social licence costs into account.
Certain conditions need to be in place for EAP2 to work as intended	**Testing workability** In response to stakeholder concerns with EAP2, we have stress tested the package of EAP reforms for major transmission projects, using the example of VNI West.	**Conditions for EAP2 to work** This would require reform proposed under EAP1 and Stage 2 to work, the ISP to identify all credible option(s), enhanced joint planning and better information on the costs and credibility of options.	**Need for 'safeguards'?** We acknowledge stakeholder concerns with EAP2. To address these, we will consider if any 'safeguards' are needed, e.g. allow TNSPs to consider new options under limited circumstances.
We acknowledge that EAP2 is a significant long-term reform	**Significant change** The ISP would include more comprehensive option identification and benefits modelling. This would require more upfront planning from TNSPs which will feed into the ISP through joint planning.	**Progressive development** Immediate Stage 2 SL and EAP1 reforms build social licence and front-load the planning process. These are significant changes. EAP2 will build on the new arrangements	**ISP Review** Given the strengthened role of the ISP under our proposed arrangements, we will consider issues relating to EAP2 in the upcoming ISP Review. Stakeholders will have the opportunity to suggest alternatives to EAP2 during this process.

Do you have any feedback on our proposed narrative?

What we plan to cover in the final TPIR report in relation to EAP1 and 2

Key recommendations and findings

- Explain how the EAP1 and EAP2 recommendations achieve the objectives of the Review by frontloading planning to de-risk delivery of major transmission projects and streamlining the EAP.
- Describe how our recommendations have been developed through close collaboration with stakeholders.

Contribution to the NEO

- Explain how the EAP1 and EAP2 recommendations contribute to the NEO.

EAP1 recommendations

- Set out detailed recommendations and description of this near-term reform and how this interacts with our TPIR Stage 2 social licence (SL) recommendations.
- We will publish detailed rule drafting along with the final report to support a future rule change request.

EAP2 narrative and recommendation to further progress EAP2 through the ISP Review

- **Position EAP2 as a high-level vision for long-term reform.** Acknowledge that EAP2 is a complex reform: getting to a mature EAP 2 process will take time and should be informed by the workability of the Stage 2 SL recommendations / EAP 1. We will acknowledge that further work is required to test the EAP2 model and we will be open to considering alternative options put forward by stakeholders. This work may be progressed through the ISP Review and any subsequent rule changes.
- **Set out a high-level 'working design'.** As originally intended, there will be less detail than for EAP1. Explain how EAP2 complements EAP1 / Stage 2 SL recommendations.
- **Identify key stakeholder concerns on EAP 2.** Explain how we have explored these concerns but note areas of current disagreement to be explored further. Describe the conditions we believe are needed for EAP2 to be successful, and how these will be further explored in the ISP Review.

Do you have any feedback on our proposed content of the EAP chapter?

Staged implementation of our reform package – EAP2 being the last piece

Q2 2023

- **Publication TPIR Stage 3 final report**
  - Recommendations to increase preparatory activities and bring forward early works
  - Outline our EAP2 reform vision
- **AER commences updates to its guidelines** on the efficient costs of building and maintaining social licence

Q4 2023

- **Publication of any social licence final determination (Stage 2 Social licence)**
  - Rule change to clarify that TNSPs must engage with local communities during the ISP and RIT-T processes and how TNSPs are expected to engage (if made)
- **AER publishes its updated guidelines**

Q2 2024

- **Publication of any early works final determination (EAP 1)**
  - Rule change to enable early works to be frontloaded by allowing the cost recovery of early works to be brought forward (if made)

Q2 2025*

- **Publication of the ISP review final report**
  - Recommendations on the EAP process including any recommended changes to the ISP and the RIT-T

2026*

- **ISP Review rule changes**
  - Rule changes to implement recommendations from the ISP review

- We expect that any rule changes implementing EAP2 would commence after any rule changes and updates to AER guidelines are made in relation to social licence and EAP1.
- This would enable any outstanding issues/concerns as part of the EAP2 rule change process to be considered.
- NB. Indicative timeframes to be confirmed

*We are currently considering pushing back the ISP review timeframes to give other reform proposed under this Review the opportunity to work.

Do you have any feedback on the timeframes we have set out, especially on the timing of the ISP Review?

MBAG group meeting

27 April (TBC)

Publish stage 3 final report

4 May

EPR0087

Key dates

We have may have an MBAG meeting before we publish the final report.

Additionally, we have fortnightly MBWG meetings on Wednesdays to update the market bodies on the progress of the Review.

From: Danielle Beinart
Sent: Wednesday, March 29, 2023 12:24 PM
To: [redacted] Benn Barr
CC: merryn.york; Violette Mouchaileh; Michael Gatt; [redacted] Michael Bradley; Victoria Mollard
Subject: RE: AEMO's feedback to DQ to inform their proposed Rule change proposal on the Feedback Loop Exclusion window

Hi [redacted]

Thank you for sharing your feedback to DCCEEW. I'll pass this on to the AEMC team managing this rule change and will be in touch if we have any follow up questions.

Cheers
Danielle

From: [redacted]@aemo.com.au>
Sent: Wednesday, 29 March 2023 11:47 AM
To: Benn Barr <Benn.Barr@aemc.gov.au>; Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Cc: merryn.york <merryn.york@aemo.com.au>; Violette Mouchaileh <Violette.Mouchaileh@aemo.com.au>; Michael Gatt <Michael.Gatt@aemo.com.au>; [redacted] <[redacted]@aemo.com.au>; Michael Bradley <Michael.Bradley@aemc.gov.au>; Victoria Mollard <Victoria.Mollard@aemc.gov.au>
Subject: AEMO's feedback to DQ to inform their proposed Rule change proposal on the Feedback Loop Exclusion window

Hi Benn and Danielle

As discussed in today's meeting, please find feedback AEMO provided to DQ [redacted] to inform their proposed Rule change proposal on the Feedback Loop Exclusion window:

"Dear [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Kind regards

[redacted]

[redacted] | Group Manager – Reform Development & Insights
Australian Energy Market Operator | [redacted] | E [redacted]@aemo.com.au

From: [redacted]
Sent: Wednesday, March 29, 2023 4:39 PM
To: Danielle Beinart; [redacted]l; [redacted]@recfit.tas.gov.au; [redacted]@industry.gov.au; [redacted]@epw.qld.gov.au; [redacted]@sa.gov.au; [redacted]@delwp.vic.gov.au; [redacted]@energy.wa.gov.au; [redacted]@nt.gov.au
CC: [redacted]@planning.nsw.gov.au; [redacted]@epw.qld.gov.au; [redacted] (DEM); [redacted]@delwp.vic.gov.au; [redacted] (DELWP); [redacted]@delwp.vic.gov.au; [redacted]@sa.gov.au; [redacted]@planning.nsw.gov.au; [redacted]; [redacted]; [redacted]; [redacted]; ACT.SCER@act.gov.au; [redacted] (DEECA); [redacted]; [redacted]; [redacted]; [redacted]@epw.qld.gov.au; [redacted] (DEECA)
Subject: AEMC | TPIR Jurisdictional Reference Group meeting - slides for 4 April 2023
Attachments: TPIR-JRG- 4 April 2023.pdf

Good afternoon all

We are looking forward to seeing you at the TPIR Jurisdictional working group next Tuesday from 10-11am AEDT.

The focus of the meeting will be on the economic assessment process- we have updated our narrative and position in relation to component 2.

We will also give an update on the final policy positions for our emissions abatement and reducing uncertainty in the ex ante framework workstreams.

If you have any questions prior to the meeting, please let me know.

Kind regards,

[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

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Jurisdictional reference group

Transmission Planning and Investment Review

4 April 2023

AEMC

AEMC

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Purpose of today's meeting

- Discuss our final policy position and proposed narrative for the EAP chapter in the TPIR final report.

- Provide an update and seek feedback on proposed Stage 3 final recommendations for:
  - Emissions abatement
  - Reducing uncertainty in the ex ante framework

- Outline our indicative timeline to progress reform.

Narrative and policy positions for the EAP chapter

We propose a set of reforms to improve the EAP for ISP projects

EAP 1- recommend rule changes

- We propose rule changes to support TNSPs to undertake better planning upfront:

  1. A TNSP may submit an early works CPA without the need to complete a RIT-T and feedback loop.
  2. The ISP may specify examples of preparatory activities and early works for actionable ISP projects to provide guidance for TNSPs.
  3. When making a decision on an early works CPA that is submitted (where no RIT-T has been completed), the AER must be satisfied that early works do not:
     - carry unreasonable stranding risk, or
     - materially restricts option comparison.

EAP 2- to be explored further in the ISP Review

- We have identified opportunities to further improve the EAP for ISP projects by:

1. Improving the quality of the inputs and assumptions that inform the ISP, via more collaborative joint planning.
2. Enhancing the ISP to more precisely specify what investment options form part of the optimal development path.
3. Supported by 1 and 2, replacing the current RIT-T with a simplified process to select the preferred option.

- As these are complex longer-term reform opportunities, we recommend EAP2 should be further developed via the ISP Review.

- Our proposed narrative is on the next slide

Narrative on EAP2: Our EAP2 proposal is our long-term vision for reform of the EAP

EAP2 is consistent with the Review's objectives	**More timely project delivery** Moving to a least-cost assessment would streamline the EAP, facilitating earlier delivery of projects that benefit consumers.	**Consumer interest** Rigour is maintained by improving collaboration between AEMO and TNSPs through strengthening the ISP and joint planning arrangements. This reinforces the intended central role of the ISP.	**Supporting social licence** TNSPs would feed social licence considerations into the development of the ISP and refine the detailed design and costs of ISP identified credible options under a least cost assessment, taking social licence costs into account.
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Do you have any feedback on our proposed narrative?

Overview of other proposed final recommendations

Emissions abatement - We propose harmonising rule changes

There are a number of instances in the rules where the limbs of the energy objectives, but not the energy objectives themselves, are referenced. The changes to the energy objectives would not automatically flow through to these provisions without a harmonising rule change, meaning emissions abatement would not automatically be considered in these instances

The scope of the rule change would go beyond solely the transmission planning framework – it would consider the regulatory framework as a whole. However, it would include consideration of changes required to the transmission planning framework to reflect the emissions abatement objective

We have identified three illustrative areas for reform in transmission planning provisions - including emissions abatement as a class of market benefit, clarifying the range of policies AEMO takes into account in the ISP to align with the energy objectives, and changing references to the 'long term interest of consumers' to references to the national electricity objective

We propose introducing a targeted ex post review mechanism for ISP projects

The Commission's final recommendation is to amend the Rules to introduce a targeted ex post review mechanism.

The new mechanism would be **separate** to the existing ex post review mechanism.

The AER would apply the **new targeted ex post review mechanism** to overspends of capex incurred on completed ISP projects. Only the project specific capex would be open to potential exclusion from the RAB.

The AER would continue to apply the **existing ex post review mechanism** to overspends of total non-ISP capex incurred over the five year ex post review period. Only BAU capex would be open for potential exclusion from the RAB.

- Reviewing ISP capex separately from BAU capex will help TNSPs to **manage risk and uncertainty** associated with the current ex post review mechanism.
- This will help to ensure that **consumers pay no more than is necessary** for major transmission projects.

Next steps

Staged implementation of our reform package

Q2 2023

- **Publication TPIR Stage 3 final report**
  - Recommendations to increase preparatory activities and bring forward early works
  - Outline our EAP2 reform vision
- **AER commences updates to its guidelines** on the efficient costs of building and maintaining social licence

Q4 2023

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- NB. Indicative timeframes to be confirmed

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Do you have any feedback on the timeframes we have set out, especially on the timing of the ISP Review?

JRG meeting

End April (TBC)

Publish stage 3 final report

4 May

EPR0087

Key dates

This is our last scheduled JRG meeting.

What is your preference on timing for another meeting? Prior to the final report? Or once we have published?

We will hold also public forum in May - date TBC

From: [redacted]
Sent: Wednesday, March 29, 2023 4:43 PM
To: [redacted]@dcceew.gov.au; [redacted]; [redacted]@dcceew.gov.au
Subject: FW: AEMC | TPIR Jurisdictional Reference Group meeting - slides for 4 April 2023
Attachments: TPIR-JRG- 4 April 2023.pdf

Hi All

I will make sure your emails are updated in our calendar for this upcoming meeting.

Kind regards,
[redacted]

From: Alisa Toomey
Sent: Wednesday, 29 March 2023 4:39 PM
To: Danielle Beinart <Danielle.Beinart@aemc.gov.au>; [redacted]
<[redacted]@recfit.tas.gov.au>; [redacted]@recfit.tas.gov.au; [redacted]
<[redacted]@planning.nsw.gov.au>; [redacted]@industry.gov.au; [redacted]@epw.qld.gov.au;
[redacted]@sa.gov.au; [redacted]@delwp.vic.gov.au; [redacted]@energy.wa.gov.au; [redacted]
[redacted] <[redacted]@aemc.gov.au>; [redacted]@nt.gov.au
Cc: [redacted]@planning.nsw.gov.au; [redacted]@epw.qld.gov.au; [redacted](DEM)
<[redacted]@sa.gov.au>; [redacted]@delwp.vic.gov.au; [redacted](DELWP)
<[redacted]@delwp.vic.gov.au>; [redacted]@delwp.vic.gov.au; [redacted]@sa.gov.au;
[redacted]@planning.nsw.gov.au; [redacted] <[redacted]@industry.gov.au>; [redacted]
[redacted] <[redacted]@act.gov.au>; [redacted]
<[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted]@act.gov.au;
[redacted](DEECA) <[redacted]@delwp.vic.gov.au>; [redacted]
<[redacted]@dpie.nsw.gov.au>; [redacted] <[redacted]@act.gov.au>; [redacted]
<[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted]@epw.qld.gov.au;
[redacted](DEECA) <[redacted]@delwp.vic.gov.au>
Subject: AEMC | TPIR Jurisdictional Reference Group meeting - slides for 4 April 2023

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If you have any questions prior to the meeting, please let me know.

Kind regards,

[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000.

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From: [redacted]
Sent: Thursday, March 30, 2023 8:09 AM
To: [redacted]
CC: [redacted]
Subject: Financeability rule change- status update?

Good morning [redacted]

I hope you are well. We have had ENA reach our wanting to discuss financeability again tomorrow.

I wanted to check in and see if there were any updates on the rule change request. Is it still with the MO?

Do you know if there have been any further discussions with ENA/TG and DCCEEW?

Thanks!
[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000.

From: [redacted]
Sent: Thursday, March 30, 2023 4:22 PM
To: [redacted]
Subject: RE: Catch up to discuss financeability and concessional finance rule changes [SEC=OFFICIAL]

Hi [redacted]
I hope you're well today.

Danielle was wondering if [redacted] was free for a quick catch-up call tomorrow.

She can do any time until midday tomorrow. Let me know.
Thanks in advance.
[redacted]

From: [redacted]@industry.gov.au>
Sent: Wednesday, 8 March 2023 10:10 AM
To: [redacted]@aemc.gov.au>
Subject: RE: Catch up to discuss financeability and concessional finance rule changes [SEC=OFFICIAL]

Hi [redacted]
Yes sure,
I will send the invite

Regards
[redacted]

From: [redacted]@aemc.gov.au>
Sent: Wednesday, 8 March 2023 10:07 AM
To: [redacted]@industry.gov.au>
Subject: RE: Catch up to discuss financeability and concessional finance rule changes [SEC=OFFICIAL]

Hi [redacted]
I hope you're well.

I can make 10:30-11am work for Danielle tomorrow. Will you be sending the formal invite through?
[redacted]

From: [redacted]@industry.gov.au>
Sent: Wednesday, 8 March 2023 9:49 AM
To: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Cc: [redacted]@aemc.gov.au>; [redacted]@industry.gov.au>
Subject: RE: Catch up to discuss financeability and concessional finance rule changes [SEC=OFFICIAL]

Hi Danielle,
Does 10:30 or 11:00am suits you?

If so I will send the calendar invite

Regards
[redacted]

From: [redacted]@industry.gov.au>
Sent: Wednesday, 8 March 2023 9:13 AM
To: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Cc: [redacted]@industry.gov.au>; [redacted]
<[redacted]@aemc.gov.au>; [redacted]@industry.gov.au>
Subject: RE: Catch up to discuss financeability and concessional finance rule changes [SEC=OFFICIAL]

Danielle
Thursday morning after 10:30 would best suit us. I've copied in my EA [redacted] who can assist with times.

[redacted]

OFFICIAL

From: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Sent: Tuesday, 7 March 2023 4:46 PM
To: [redacted]@industry.gov.au>
Cc: [redacted]@industry.gov.au>; [redacted]
<[redacted]@aemc.gov.au>
Subject: Catch up to discuss financeability and concessional finance rule changes

Hi [redacted]

I hope you are well?

I understand our teams and the AER will be organising for a debrief following the meeting with Transgrid today.

I would find it helpful for us to have a separate discussion on rule change timing. I have resources currently allocated to both financeability and also concessional finance and would like to get a feel on when we will get these to help me manage their availability.

Can you let me know when you have 15 or 30 minutes spare this week and I'll do my best to accommodate. Let me know if there is someone on your end that [redacted] can talk to directly to find a time.

Kind Regards
Danielle

Danielle Beinart | Executive General Manager
Australian Energy Market Commission
T +61 2 8296 7836
[redacted]
danielle.beinart@aemc.gov.au | www.aemc.gov.au

Assistant: [redacted]@aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000

From: [redacted]
Sent: Monday, April 3, 2023 4:27 PM
To: [redacted]; [redacted]; [redacted]@industry.gov.au; Danielle Beinart; [redacted]; [redacted]; [redacted]; [redacted]@dcceew.gov.au; [redacted]; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]; [redacted]@dcceew.gov.au
CC: [redacted]; [redacted]
Subject: Monthly AEMC-DCCEEW catch up

Good afternoon all

Looking forward to seeing you tomorrow afternoon for our monthly catch up. I have updated most of the email addresses on the invite, but if there are people who usually attend and I have missed, please let me know.

Draft agenda is consistent with previous weeks. I have added in a general update on rule change timing/ resourcing from our end as well.

1. Rule changes (DCCEEW and AEMC)
    a. Concessional finance
    b. Financeability
    c. Social Licence
    d. Feedback loop
    e. Discussion re timing, prioritisation and resources
2. TPIR Stage 3 update on proposed final policy positions and final report(AEMC)

[redacted]

5. Other business

Kind regards
[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000.

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Subject: Monthly AEMC-DCCEEW catch up
Location: Blackwood

Start: 4/4/2023 4:30 AM
End: 4/4/2023 5:30 AM
Show Time As: Tentative

Recurrence: Monthly
Recurrence Pattern: the first Tuesday of every 1 month(s) from 1:00 PM to 2:00 PM

Meeting Status: Not yet responded

Organizer: [redacted]
Required Attendees: [redacted] [redacted] [redacted] [redacted] [redacted]@industry.gov.au; Danielle Beinart; [redacted]; [redacted]; [redacted]; [redacted]; [redacted] [redacted]@dcceew.gov.au; [redacted]; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]; [redacted] [redacted]@dcceew.gov.au
Optional Attendees: [redacted]; [redacted]; [redacted] [redacted]
Resources: Blackwood

1. Rule changes (DCCEEW and AEMC)
    a. Concessional finance
    b. Financeability
    c. Social Licence
    d. Feedback loop
    e. Discussion re timing, prioritisation and resources
2. TPIR Stage 3 update on proposed final policy positions and final report(AEMC)

[redacted]

5. Other business

Microsoft Teams meeting

Join on your computer, mobile app or room device
Click here to join the meeting

Meeting ID: 477 960 171 875
Passcode: WqwWhQ
Download Teams | Join on the web

Join with a video conferencing device

270539195@t.plcm.vc

Video Conference ID: 135 744 345 4

Alternate VTC instructions

Learn More | Meeting options

From: [redacted]
Sent: Thursday, April 6, 2023 9:22 AM
To: [redacted]
Subject: DCCEEW/AEMC discussion - TPIR Stage 3 and [redacted] - comments from AEMC
Attachments: [redacted]

Hi all

Thanks for your time yesterday afternoon discussing [redacted] and the associated reforms.

Attached are the comments we had on the consultation paper. I think the vast majority were answered in today's meeting, but thought it was still useful to send them on.

If you have any questions about any of our comment, or on TPIR and issues raised by stakeholders, please don't hesitate to ask.

Kind regards,
[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000.

From: Gowans, Kirsty
Sent: Friday, April 7, 2023 10:49 AM
To: Anna Collyer
CC: Danielle Beinart; [redacted]
Subject: Re: Quick check in re transmission [SEC=UNOFFICIAL]

Hi Anna

Sorry I missed the workshop. I heard it was very interesting and productive.

We remain keen to progress rule changes and expect the Minister will sign off on these on his return from Easter break. We have resolved Victoria's issue on the proposed concessional finance rule so will send all three requests within the next week.

We understand Transgrid doesn't see the financeability rule change as a pressing priority but we have a different perspective given current requests for financial support.

I am having a bit of time off too - back on the 17th and look forward to catching up then.

Kind regards

Kirsty

From: Anna Collyer <Anna.Collyer@aemc.gov.au>
Sent: Thursday, April 6, 2023 10:26:02 AM
To: Gowans, Kirsty <Kirsty.Gowans@dcceew.gov.au>
Cc: Danielle Beinart <Danielle.Beinart@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>
Subject: Quick check in re transmission [SEC=UNOFFICIAL]

HI Kirsty

Sorry we didn't see you yesterday but I understand everything is very hectic at the moment. We had a good session with your team, particularly around reliability and emissions. It would be great to circle back with you once you have a chance to debrief with your team.

One additional thing I had been hoping to check in on was the transmission rule change requests. We're getting mixed messages from TransGrid re urgency. I was assuming these were waiting for the Minister to have some clear air post Safeguard Mechanism but otherwise remain on the priority list for us. Is that still your understanding?

I'm heading off on some leave for the school holidays (back on 19/4). If you want to touch base in the meantime let [redacted] know (I'll be overseas so just need to juggle timezones) or of course please speak to Danielle, who is back in the office from Tuesday next week.

Thanks and hope you will be able to have a break over Easter.

Anna

Anna Collyer (She/Her)
Chair
Australian Energy Market Commission
D [redacted] | T [redacted] | M [redacted]
Anna.collyer@aemc.gov.au | www.aemc.gov.au

-
Assistant: [redacted] | T [redacted] | [redacted]@aemc.gov.au

The Australian Energy Market Commission office is located on land traditionally owned by the Gadigal people of the Eora nation.

From: Minister Bowen
Sent: Tuesday, April 11, 2023 12:55 PM
To: Anna Collyer
Subject: Letters from the Minister for Climate Change and Energy - rule change requests [SEC=OFFICIAL]
Attachments: Consultation expectations signed.pdf; Financeability signed.pdf; Concessional finance signed.pdf

Good afternoon,

Please find attached letters from the Minister for Climate Change and Energy regarding rule change requests.

No hard copies to follow.

Best,

[redacted](she/her)
Departmental Liaison Officer | Office of the Hon Chris Bowen MP
Minister for Climate Change and Energy
Suite MG 60, Parliament House, Canberra ACT 2600 Australia
[redacted] | [redacted]@industry.gov.au

DCCEEWgov.au ABN 63 573 932 849

THE HON CHRIS BOWEN MP
MINISTER FOR CLIMATE CHANGE AND ENERGY

MS23-001312

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 clarify expectations for Transmission Network Service Providers engaging communities and other stakeholders in the Regulatory Investment Test – Transmission for Integrated System Plan projects.

These necessary changes were recommended in the Australian Energy Market Commission's (AEMC) final report for Stage 2 of the 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 F

Rule Change Request

Ensuring consistent stakeholder engagement for ISP projects

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. Background

2.1. AEMC Transmission Planning and Investment Review

The AEMC's Transmission Planning and Investment Review (the Review) considers how to ensure the regulatory framework supports the timely and efficient delivery of major transmission projects, while ensuring investment in these projects are in the long-term interests of consumers.

Stage 2 of the review, which focused on near term solutions and reducing uncertainty for Transmission Network Service Providers (TNSPs), included recommendations to provide greater clarity around social licence activities in the Regulatory Investment Test for Transmission (RIT-T) for actionable and future Integrated System Plan (ISP) projects.

The Review recommended that the National Electricity Rules (NER) be amended to ensure that expectations on TNSPs to engage and consult communities and other affected stakeholders at key points in the planning process are consistent and clear for all ISP projects.

Following discussions between the Commonwealth and AEMC, the Commonwealth has agreed to submit a rule change request and associated draft rule to implement the AEMC's recommended social licence reforms.

The Commonwealth proposes the AEMC consider this rule change as having been adequately publicly consulted on through the Transmission Planning and Investment Review.

3. Statement of Issue

3.1. Improve social licence outcomes by clarifying expectations for TNSP engagement with communities and other stakeholders affected by ISP transmission projects

Social licence, for these purposes, refers to the activities undertaken by TNSPs[1] for the RIT-T to build and maintain broad community acceptance of the development and operation of major transmission projects. Obtaining and maintaining social licence is critical to the timely and efficient delivery of projects identified in the ISP.

This rule change request seeks to improve social licence outcomes by clarifying who TNSPs should consult and when. It also seeks to specify a set of minimum community engagement expectations in the National Electricity Rules (NER) with which TNSPs must comply.

Ineffective community engagement by TNSPs can result in failure to obtain a 'social licence', risking timely and efficient delivery of transmission projects. Effective engagement ensures issues around transmission route selection are identified and managed early before key decisions are made, and that

[1] Including the Australian Energy Market Operator - Victorian Planning

more accurate costs are reflected in a RIT-T's cost assessment of an actionable ISP project. Currently, there are inconsistencies in the NER in relation to requirements for TNSPs to engage with local communities and other affected stakeholders at key points in the planning process for major transmission projects.

The Review acknowledged that:

- TNSPs, local communities and other stakeholders affected by major transmission projects are critical partners in the delivery of those projects.
- Building and maintaining trust between stakeholders is critical if TNSPs are to deliver projects efficiently and on time.

Local communities and other stakeholders include local councils, local community members and other relevant community stakeholders wishing to express their views about the development of a major transmission project identified through the ISP.

The Review also recognised that:

- The NER provides many opportunities for community stakeholders to engage in the planning and regulatory processes but does not explicitly recognise the value of early engagement with these stakeholders in the planning process for ISP projects, other than for Renewable Energy Zones (REZs).
- There is misalignment in and between the NER and the Australian Energy Regulator's (AER) various guidelines regarding whether and when TNSPs should engage with stakeholders.

4. Description of the proposed rule change

This is a request to amend the NER to implement recommendations in the Review's Stage 2 Final Report. The proposed amendments, which were prepared by the AEMC and accompanied the Stage 2 Final Report, are attached to this request (Attachment A).

The proposed amendments will:

- Expand the definition of 'preparatory activities' to include engagement and consultation with local councils, local community members, members of the public and any other relevant stakeholders wishing to express their views (proposed paragraph (e) in the definition of 'preparatory activities' in cl 5.10.2).
- Expand the definition of 'interested party' as it applies to the existing RIT-T consultation procedures for actionable ISP projects to include local councils, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of the project (proposed cl 5.15.1(b)).
- Require TNSPs to comply with a set of 'community engagement expectations' when preparing a RIT-T for an actionable ISP project and engaging with local communities and other stakeholders as part of preparatory activities for future and actionable ISP projects (proposed cl 5.10.2, cl 5.16A.4(r), 5.24.1(e)).
- Insert a definition of 'community engagement expectations' into the NER that is comparable to the existing expectations placed on jurisdictional planning bodies for REZs (proposed cl 5.10.2))

In addition to the changes proposed in the AEMC's stage 2 final report, the following amendments will also support more consistent community and stakeholder engagement:

- Expand the reference to 'council and stakeholder engagement' to include local council, local community members, members of the public and any other relevant stakeholders. This maintains consistency between the rules and the proposed new definition of 'preparatory activities' (proposed cl 5.24.1(d)(3)(c), 5.24.1(e)).
- Extending the new definition of interested party (proposed cl 5.15.1(b)) to the RIT-T dispute process (Cl 5.16B).

To ensure smooth implementation of these amendments, there will be transitional arrangements that:

- Allow a TNSP that has commenced preparatory activities for an actionable ISP project or future ISP project to choose whether the proposed social licence amendments to the definition of 'preparatory activities' apply to the project (proposed cl 11.[xxx].2.4)
- Allow a TNSP that has commenced community consultation for an actionable ISP project or future ISP project to choose whether the proposed social licence amendments to cl 5.16A.4 apply to the project (proposed cl 11.[xxx].2.5)

5. How the proposed rule change will address the issue

The proposed amendments are expected to improve TNSP and community engagement and give communities more confidence and trust in the consultation process through the following:

- Making clear the information a TNSP must provide communities and stakeholders
- Making clear the expectations for a TNSP's engagement with communities and stakeholders
- Requiring TNSPs to better articulate the benefits and costs of ISP projects
- Improving the transparency of a TNSP's engagement with communities and stakeholders
- Ensuring consistency between the NER and the AER's various stakeholder engagement guidelines
- Ensuring TNSP community and stakeholder engagement is consistent for all actionable and future ISP projects.

Sections 6 and 7 give further detail.

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

The National Electricity Objective (NEO), 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 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.

The proposed social licence amendments advance the NEO through supporting efficient and robust decision-making for all parties. Decision-making will be improved through the provision of clear guidance and increased transparency as to when engagement with local communities will occur, and who will be consulted.

Clear guidance on social licence activities in the NER will help to support the efficient and timely delivery of actionable and future ISP transmission projects. This will, alongside additional guidance from the AER, increase transparency for affected parties. An aim of the AER and NER's additional guidance is to reduce uncertainty for local communities and other affected stakeholders. Making TNSP social licence activities consistent for all ISP projects:

- Removes confusion around engagement for the TNSPs, the AER, communities, and other stakeholders
- Supports efficient decision-making by TNSPs
- Improves regulatory certainty.

7. Expected costs, benefits and impacts

7.1. Expected benefits

As noted in the Review, meaningful, early, high quality engagement with local communities and other stakeholders has several benefits including:

- Improves stakeholder and community understanding of the costs and risks of a major transmission project.
- Facilitates understanding of any community concerns, including around route selection by affected stakeholders, which can inform the identification and management of risk.
- Provides opportunities to identify and assess whether project options (including credible options for assessment in the RIT-T) are likely to be able to be delivered in time to meet the need, particularly where there are community concerns.
- Provides opportunities for the preferred option to be designed with the benefit of local community input.
- Provides TNSPs with opportunities to address or manage concerns raised and demonstrate to communities how it has taken their concerns and feedback into account.
- Community acceptance will help a TNSP deliver a project on time and within budget.

7.2. Expected costs

The proposed amendments are not expected to impose any significant new costs on TNSPs or consumers.

It is understood that many TNSPs are already engaging with local communities. The purpose of this rule change request is to ensure consistency in the nature, timing and comprehensiveness of this engagement. Any additional costs in engagement should be offset by improved timeliness of delivery of ISP projects.

7.3. Expected impacts

A TNSP's community engagement activities may be impacted by the expanded definitions of 'preparatory activities' and 'interested party'. Additionally, TNSPs will be impacted by needing to comply with a set of 'community engagement expectations' specified in the NER.

Local communities and other stakeholders affected by a major ISP transmission project will be positively impacted through better TNSP consultation.

The AER will have greater clarity for developing associated guidance and assessing the efficiency of a TNSP's costs for social licence activities.

Attachment A

Social Licence

…

5.10.2 Definitions

In this Part D and schedules 5.8, 5.9 and 5.4A:

…

preparatory activities means activities to design and to investigate the costs and benefits of *actionable ISP projects*, *future ISP projects* and REZ stages (as applicable), including:

(a) detailed engineering design;

(b) route selection and easement assessment work;

(c) cost estimation based on engineering design and route selection;

(d) preliminary assessment of environmental and planning approvals; and

(e) ~~council and stakeholder engagement,~~

~~which are undertaken prior to the identification of the *preferred option* for the relevant project or stage.~~

(e) engagement with local council, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of the *actionable ISP project*, *future ISP project*, or project within a REZ stage, in accordance with the *community engagement expectations*.

…

community engagement expectations means ensuring that:

(a) stakeholders receive information that is clear, accurate, relevant and timely;

(b) stakeholders have sufficient opportunity to consider and respond to the information provided;

(c) consultation materials and methods of communication tailored to the needs of different stakeholders are used; and

(d) the stakeholders' role in the engagement process is clearly explained to them, including how their input will be taken into account.

…

10. Glossary

…

community engagement expectations

Has the meaning given to it in clause 5.10.2.

...

5.15.1 Interested parties

(a) In clauses 5.16.4, 5.16A.4, rule 5.16B and clauses 5.17.4 and 5.17.5, *interested party* means a person including an end user or its representative who, in the AER's opinion, has the potential to suffer a material and adverse NEM impact from the investment identified as the preferred option in the project assessment conclusions report or the final project assessment report (as the case may be).

(b) For the purpose of the *regulatory investment test for transmission* for an *actionable ISP project*, an *interested party* includes a local council, local community member, member of the public and any other relevant stakeholder wishing to express their views about the development of the *actionable ISP project*.

5.16A.4 Regulatory investment test for transmission procedures

Project assessment draft report

(a) If a *Transmission Network Service Provider* is identified as a *RIT-T proponent* in an *Integrated System Plan* for an *actionable ISP project*, then that *Transmission Network Service Provider* is the *RIT-T proponent* for that *RIT-T project* and must apply the *regulatory investment test* for transmission to, and consult all *Registered Participants*, *AEMO* and *interested parties* on, that *RIT- T project* in accordance with this clause 5.16A.4.

...

(c) The *RIT-T proponent* must prepare a report in accordance with paragraphs (d) to (h) (*project assessment draft report*) and publish it by the date specified in the *Integrated System Plan* for that *RIT-T project* or such longer time period as is agreed in writing by the *AER* and make that report available to all *Registered Participants*, *AEMO* and *interested parties*.

...

(f) The *RIT-T proponent* must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the proposed *preferred option* presented, and the issues addressed, in the *project assessment draft report*.

...

(h) Within 4 weeks after the end of the consultation period required under paragraph (g), at the request of an *interested party*, a *Registered Participant* or *AEMO* (each being a relevant party for the purposes of this paragraph), the *RIT-T proponent* must meet with the relevant party if a meeting is requested by two or more relevant parties and may meet with a relevant party if after having considered all submissions, the *RIT-T proponent*, acting reasonably, considers that the meeting is necessary.

Project assessment conclusions report

(i) As soon as practicable after the end of the consultation period on the *project assessment draft report* referred to in paragraph (g), the *RIT-T proponent* must, having regard to the submissions received, if any, under paragraph (f) and the matters discussed at any meetings held, if any, under paragraph (h), prepare and make available to all *Registered Participants*, *AEMO* and *interested parties* and *publish* a report (the *project assessment conclusions report*).

…

Consultation with communities

(r) To the extent that consultations under paragraphs (a) and (f) include engagement with *interested parties* as defined in clause 5.15.1(b), that engagement must be undertaken in accordance with the *community engagement expectations*.

5.22.6 Content of Integrated System Plan

…

Preparatory activities

(c) An *Integrated System Plan* may specify whether preparatory activities must be carried out for *future ISP projects* and the timeframes for carrying out preparatory activities.

(d) A *Transmission Network Service Provider* must:

~~(1)~~ in the case of an *actionable ISP project* for which preparatory activities have not yet commenced, commence preparatory activities as soon as practicable; and

~~(2)~~ in the case of a *future ISP project*, if the *Integrated System Plan* provides that preparatory activities must be undertaken for that project, commence preparatory activities in accordance with the timeframes specified in the *Integrated System Plan* for that project,

provided that where preparatory activities are required to be undertaken pursuant to clause 5.24.1(b)(2), a *jurisdictional planning body* must ensure that preparatory activities are commenced in accordance with the timeframes described in subparagraph (1) or (2) (as applicable).

5.24.1 REZ design reports

(d) Subject to paragraph (e), in preparing a *REZ design report*, the relevant *jurisdictional planning body* must:

(1) ensure that a public consultation is conducted with the following stakeholders:

(A) interested parties wishing to register their interest in developing on or more projects in the REZ; and

(B) local council, local community members, members of the public and any other relevant stakeholders wishing to express their views about the development of projects within the REZ; and

(2) prepare a draft of the *REZ design report* and, over a period of no less than six weeks; invite the stakeholders described at subparagraph (1) to make written submission on the draft *REZ design report*;

(3) take into account the following, a summary of which must be included

in the *REZ design report*:

(A) the results of the public consultation undertaken in accordance with subparagraph (1);

(B) any written submissions received under subparagraph (2);

(C) the results of any ~~council and stakeholder~~ engagement with local council, local community members, members of the public and any other relevant stakeholders undertaken as part of preparatory activities pursuant to paragraph (b)(2)(i);

(e) In undertaking any public consultation pursuant to paragraph (d)(1), seeking written submissions in accordance with paragraph (d)(2) and undertaking ~~the council and stakeholder~~ engagement with local council, local community members, members of the public and any other relevant stakeholders as part of preparatory activities pursuant to paragraph (b)(2)(i), the *jurisdictional planning body* must ~~ensure that:~~ do so in accordance with the *community engagement expectations*.

(1) ~~stakeholders receive information that is clear, accurate, relevant and timely;~~

(2) ~~stakeholders have sufficient opportunity to consider and respond to the information provided;~~

(3) ~~targeted consultation materials, and methods of communication tailored to the needs of different stakeholders, are used; and~~

(4) ~~stakeholders' role in the engagement process is clearly explained to them, including how their input will be taken into account~~

---

4 Transitional provisions

11.[xxx].1.1 Definitions

For the purposes of this Part [XX]:

Amending Rule means the National Electricity Amendment ([TPIR Stage 2]) Rule.

commencement date means the date on which the Amending Rule commences operation.

11.[xxx].2.2 Existing actionable ISP projects prior to the clause 5.16A.5 stage

(a) This clause 11.[xxx].2 applies if, at the commencement date, for an existing *actionable ISP project* the *RIT-T proponent* has requested written confirmation from *AEMO* under clause 5.16A.5(b).

(b) For an existing *actionable ISP project* referred to in clause 11.xxx.2.2(a),

rule
5.16A continues to apply as if the Amending Rule had not been made.

11.[xxx].2.3 Cost Benefit Analysis Guidelines

(a) Within 12 months after the commencement date, the *AER* must update and *publish* on its website the *Cost Benefit Analysis Guidelines* required under clause 5.22.5 to comply with the requirements set out in clause 5.16A.2(c)(4), and in doing so must comply with the *Rules consultation procedures*.

(b) If, prior to the commencement date, and for the purposes of updating the *Cost Benefit Analysis Guidelines* in anticipation of the Amending Rule, the *AER* undertook consultation or steps equivalent to that as required in the *Rules consultation procedures*, then that consultation or steps undertaken is taken to satisfy the equivalent consultation or steps under the *Rules consultation procedures*.

11.[xxx].2.4 Preparatory activities

(a) This clause 11.[xxx].2.4 applies if, at the commencement date, for an existing *actionable ISP project* or a *future ISP project*, the *Transmission Network Service Provider* has commenced the *preparatory activities* referred to in clause 5.22.6(d).

(b) For an existing *actionable ISP project* or *future ISP project* referred to in clause 11.xxx.2.4(a), the definition of *preparatory activities* continues to apply as if the Amending Rule had not been made, unless the *Transmission Network Service Provider* elects for the Amending Rule to apply.

11.[xxx].2.5 Community engagement expectations

(a) This clause 11.[xxx].2.5 applies if, at the commencement date, for an existing *actionable ISP project* the *Transmission Network Service Provider* has commenced the consultation referred to in clauses 5.16A.4(a) and (f).

(b) For an existing *actionable ISP project* referred to in clause 11.xxx.2.5(a), clauses 5.16A.4(a) and (f) continue to apply as if the Amending Rule had not been made, unless the *Transmission Network Service Provider* elects for the Amending Rule to apply.

(c) If the *Transmission Network Service Provider* makes this election then it must confirm this in the project assessment *draft report* or *project assessment conclusions report* as relevant.

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.

[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]

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[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.

From: Danielle Beinart
Sent: Wednesday, April 12, 2023 9:47 AM
To: [redacted]@aeic.gov.au; [redacted]@industry.gov.au; [redacted]@industry.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au
CC: [redacted]
Subject: AEMC & AEIC | TPIR social licence & the Western Renewables case study

Hi [redacted]

We are looking forward to our discussion later today.

Please see below a brief suggested agenda to guide our time. Let us know if you'd like to amend.

1. Acknowledgement of Country (AEMC)
2. Discussion of learnings from Vic Western Renewables Link (AEIC)
3. Update on TPIR Stage 3 EAP workstream and final policy positions (AEMC)
4. Update on social licence rule change (AEMC)

Kind Regards
Danielle

Danielle Beinart | Executive General Manager
Australian Energy Market Commission
T +61 2 8296 7836
[redacted]
danielle.beinart@aemc.gov.au | www.aemc.gov.au

Assistant: [redacted]@aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000

From: [redacted]
Sent: Thursday, April 20, 2023 4:48 PM
To: Danielle Beinart
Subject: RE: Rules changes public [SEC=OFFICIAL]

Thanks

From: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Sent: Thursday, 20 April 2023 4:47 PM
To: [redacted] <[redacted]@dcceew.gov.au>
Subject: RE: Rules changes public [SEC=OFFICIAL]

Hi [redacted]

The rule change is up on our website. See https://www.aemc.gov.au/rule-changes/enhancing-community-engagement-transmission-building

We will be in touch in the next week or so to let you know our proposed timetable for the three rule changes.

Kind Regards
Danielle

From: [redacted] <[redacted]@dcceew.gov.au>
Sent: Tuesday, 18 April 2023 3:58 PM
To: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Subject: RE: Rules changes public [SEC=OFFICIAL]

Great – thanks for the update, that's great – we're wanting to say publicly that minister has lodged SL rule change in response to some corro from the public and point to aemc website

From: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Sent: Tuesday, 18 April 2023 3:32 PM
To: [redacted] <[redacted]@dcceew.gov.au>
Subject: RE: Rules changes public [SEC=OFFICIAL]

Hi [redacted]

Thank you for reaching out – I had meant to give you a progress update.

We are aiming to get the social licence rule change published on our website later this week. I will send you an email when it's up.

We prioritised publishing the concessional finance and financeability rule change requests as those projects have resources allocated and will be able to get moving quickly. We have an internal initiation meeting for these two projects on Friday afternoon and I can let you know next week our indicative timetable for these projects as well as for the social licence rule change.

Kind Regards
Danielle

From: [redacted] <[redacted]@dcceew.gov.au>
Sent: Tuesday, 18 April 2023 11:01 AM
To: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Subject: Rules changes public [SEC=OFFICIAL]

Hi Danielle – I see that the financeability and concessional finance rule changes are published on AEMC website as pending; I wondered when the social licence one would be published too?
[redacted]

From: [redacted]
Sent: Thursday, April 27, 2023 12:26 PM
To: [redacted]
Subject: Financeability - depreciation of different asset classes

Hi [redacted]

I had a quick question for the AER in relation to the proposal in the financeability rule change request to require that the AER explicitly outlines how depreciation is to apply for different asset classes, including biodiversity offsets.

Is there a current requirement for the AER to outline how depreciation applies to any asset class? Would there be a guideline or a rule to that effect? Or would the AER make any assessment based on the general depreciation rules 6A.6.3 apply?

Is the suggested proposal in the request to provide more details for specific asset classes' depreciation schedules just asking for more detail than is currently in the rules? Which would be 6A.6.3?

Just looking to clarify.

Cheers,

[redacted]

[redacted] (he/him)
Adviser
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

From: [redacted]
Sent: Thursday, April 27, 2023 2:13 PM
To: [redacted]
CC: [redacted]
Subject: RE: Financeability - Biodiversity [SEC=OFFICIAL]

Hi [redacted]

I hope you've been going well!

DCCEEW moved on to a new IT system at the end of March and our email addresses now finish with @dcceew.gov.au rather than @industry.gov.au. Apologies this was not communicated to you earlier.

We spoke with [redacted]@planning.nsw.gov.au) at NSW about the depreciation of biodiversity offset credits.

NSW and the CEFC have been working closely on this issue. [redacted]@cefc.com.au) is the best contact to speak to at the CEFC on this issue.

We would be eager to be involved in these conversations given the close alignment with the Rewiring the Nation program. We are also happy to have a preliminary discussion with you on the depreciation of biodiversity offset credits to help frame the issue.

Please also note, [redacted] has recently begun long service leave. In his place, [redacted] (CC'd) will be taking over the work for rule changes in the team.

If you have any further questions, please feel free to get in touch.

Cheers,
[redacted]

[redacted]
Senior Policy Officer
Electricity Division | Networks Reforms and Projects |
Eora Country, L7 100 Market Street, Sydney 2000, GPO Box 3090, Canberra ACT 2601
Department of Climate Change, Energy, the Environment and Water
P [redacted] | **E** [redacted]@dcceew.gov.au
DCCEEWgov.au ABN 63 573 932 849

From: [redacted]@aemc.gov.au>
Sent: Thursday, 20 April 2023 9:56 AM
To: [redacted]@industry.gov.au>

Cc: [redacted]@aemc.gov.au>; [redacted]@industry.gov.au>
Subject: RE: Financeability - Biodiversity

HI [redacted]

Just following up on this. Given next week is a short week it would be good to get the ball rolling.

[redacted]

From: [redacted]
Sent: Monday, 17 April 2023 2:33 PM
To: [redacted]@industry.gov.au
Cc: [redacted]@industry.gov; [redacted]@aemc.gov.au>
Subject: Financeability - Biodiversity

Hi [redacted]

Hope you are both well.

I wanted to touch base on the biodiversity component of the financeability rule change.
I'll be managing this workstream moving forward and I'm trying to bring myself up to speed.

It's my understanding that you have had discussions with NSW on this issue prior to submitting the rule change request.
Would it be possible to get the contact details of who you spoke to at NSW so I can contact them and arrange a meeting?

If so, that would be excellent.

Cheers,

[redacted]

[redacted] (he/him)
Adviser
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

From: [redacted]
Sent: Friday, April 28, 2023 3:40 PM
To: [redacted]
Subject: RE: TPIR 3 [SEC=OFFICIAL]

Follow Up Flag: Follow up
Flag Status: Completed

Hi [redacted]

Thank you. Is the embargoed copy expected around Tuesday? I have also been asked if there is any chance you could share any of the draft recommendations?

In relation to the feedback loop, it is being progressed internally and then will go out for consultation. We expect the consultation period to be finalised by mid-May with the request to follow through by the end of May.

Kind regards,
[redacted]

From: [redacted] <[redacted]@aemc.gov.au>
Sent: Wednesday, 26 April 2023 9:00 PM
To: [redacted] <[redacted]@dcceew.gov.au>
Subject: RE: TPIR 3 [SEC=OFFICIAL]

Hi [redacted]

Thanks for reaching out. We had our Commission meeting today and are making edits to the report currently. Apologies we were unable to get it to you prior to our statutory meeting, we were finalising the report up until the deadline.

Once we have made the edits and have approval we will be able to share an embargoed copy.

I was actually hoping to check in with you on the feedback loop rule change request. Was there any update on timing for this?

We are coming back to Paul at the end of this week with indicative timing for the progression of the concessional finance, financeability and social licence rule changes.

Kind regards,
[redacted]

From: [redacted] <[redacted]@dcceew.gov.au>
Sent: Wednesday, 26 April 2023 3:36 PM
To: [redacted] <[redacted]@aemc.gov.au>
Subject: TPIR 3 [SEC=OFFICIAL]

Hi [redacted]

My name is [redacted] we met recently in the monthly catch ups. As [redacted] noted, I am taking over the workload for rule changes in the team.

Just reaching out to ask if there are any chapters of the TPIR 3 review that you are able to share this week ahead of it distribution on 4 May?

Kind regards,

[redacted]
Assistant Manager

Rewiring the Nation | Network Branch | Network Reform Section
Ngunnawal Country, 51 Allara St, Canberra ACT 2601 Australia, GPO Box 3090
Department of Climate Change, Energy, the Environment and Water
P 02 xxxx xxxx | xxxxx | **E** [redacted]@dcceew.gov.au

DCCEEWgov.au ABN 63 573 932 849

From: [redacted]
Sent: Monday, May 1, 2023 3:18 PM
To: Danielle Beinart
CC: [redacted]
Subject: RE: DCCEEW rule changes - update [SEC=UNOFFICIAL]

Danielle

Thanks for this update. Looking forward to 25th.

Regards

[redacted]

From: Danielle Beinart <Danielle.Beinart@aemc.gov.au>
Sent: Monday, 1 May 2023 9:00 AM
To: [redacted]@dcceew.gov.au>
Cc: [redacted]@aemc.gov.au>; [redacted]@aemc.gov.au>; [redacted]@aemc.gov.au>
Subject: DCCEEW rule changes - update [SEC=UNOFFICIAL]

Hi [redacted]

I wanted to give you an update on our internal thinking on the approach and timeframes for the three transmission rule changes DCCEEW have submitted to the AEMC. This is our intended approach and timeframes, but this needs to be confirmed through our internal formal processes. The timeframes and approach below reflect staffing availability and assume there are no delays to the process e.g. complex issues raised in stakeholder submissions that require extensive analysis and an extension to timeframes. We may also update sponsors of projects as we refine our resourcing over the next month and will let you know if we do.

Financeability and concessional finance

- Sponsor for Financeablity rule change is [redacted] and Sponsor for Concessional Finance is [redacted]
- Both will follow a standard rule change process
- Progressed in parallel, with separate papers
- Indicative timeframes are:
    - Initiation/**consultation papers** published on **Thursday 25 May 2023**
    - Stakeholder submissions close 30 June 2023
    - **Draft determination** and draft rule published on **7 September 2023**
    - Stakeholder submissions close 19 October 2023
    - **Final determination** and final rule published on **30 November 2023**

I have linked the Financeability (*Accommodating financeability in the regulatory framework*) project page and concessional finance (*Concessional finance for transmission network service providers*) project page here for your convenience.

Social licence

- Sponsor for this rule change is [redacted]
- Fast-tracked rule change process- i.e. straight to draft determination
- Timeframes are:
    - Notice to initiate published in SA Gazette 13 July 2023
    - **Draft determination** and draft rule published on **3 August 2023**
    - Stakeholder submissions close 14 September 2023
    - **Final determination** and final rule published on **26 October 2023**

I have linked the Social licence (*Enhancing community engagement in transmission building)* project page.
Please note we will start consultation on social licence with key stakeholders prior to the draft determination being published.

If you have any questions please reach out to me or to the relevant rule change sponsor.

Kind Regards
Danielle

Danielle Beinart | Executive General Manager
Australian Energy Market Commission
T +61 2 8296 7836
[redacted]
danielle.beinart@aemc.gov.au | www.aemc.gov.au

Assistant: [redacted]@aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000

From: [redacted]
Sent: Monday, May 1, 2023 6:11 PM
To: Danielle Beinart; [redacted]; [redacted]@industry.gov.au; [redacted]; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]; [redacted]@dcceew.gov.au; [redacted]
CC: [redacted]; [redacted]
Subject: Monthly AEMC-DCCEEW catch up

Good evening everyone,

Looking forward to speaking with you all tomorrow. Draft agenda for the meeting at 1pm is below. Please let me know if there is anything you would like to add.

Update on received rule changes approach and timing (AEMC)
- a. Financeability
- b. Concessional finance
- c. Social licence

1. Update on pending rule changes, expected timing and confirmation they will come from DCCEEW (DCCEEW)
   - a. Feedback loop
   - b. [redacted]
   - c. EAP1
   - d. emissions
   - e. Targeted ex-post review
2. Update on TPIR Stage 3 final policy positions and next steps (AEMC)
3. [redacted]
4. [redacted]
5. Other business

Kind regards,
[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000.

The Gadigal people of the Eora nation are the traditional owners of the land on which AEMC's office is located.

Subject: Monthly AEMC-DCCEEW catch up
Location: Murrumbidgee

Start: 5/2/2023 3:00 AM
End: 5/2/2023 4:00 AM
Show Time As: Tentative

Recurrence: Monthly
Recurrence Pattern: the first Tuesday of every 1 month(s) from 1:00 PM to 2:00 PM

Meeting Status: Not yet responded

Organizer: [redacted]
Required Attendees: Danielle Beinart; [redacted]@industry.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au; [redacted]@dcceew.gov.au
Optional Attendees: [redacted]
Resources: Murrumbidgee

Draft agenda

1. Update on received rule changes approach and timing (AEMC)
   a. Financeability
   b. Concessional finance
   c. Social licence
2. Update on pending rule changes, expected timing and confirmation they will come from DCCEEW (DCCEEW)
   a. Feedback loop
   b. [redacted]
   c. EAP1
   d. emissions
   e. Targeted ex-post review
3. Update on TPIR Stage 3 final policy positions and next steps (AEMC)
4. [redacted]
5. [redacted]
6. Other business

Microsoft Teams meeting

Join on your computer, mobile app or room device
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Passcode: WqwWhQ
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Join with a video conferencing device

270539195@t.plcm.vc
Video Conference ID: 135 744 345 4
Alternate VTC instructions

Learn More | Meeting options

From: [redacted]
Sent: Tuesday, May 2, 2023 12:40 PM
To: [redacted]; [redacted]
CC: [redacted]; [redacted]; [redacted]; [redacted]
Subject: RE: Financeability - Biodiversity [SEC=OFFICIAL]

Hi [redacted]

I have been well thanks.

Thanks for confirming that you did not intend to omit clauses S6A.1.3(7)(ii), S6A.1.3(7)(iv) and the Chapter 10 Glossary, and that the Commonwealth is comfortable with the AEMC's proposed TPIR rule drafting for these clauses.

That would be great if we could please discuss the context behind the recommendations for the depreciation of biodiversity offsets credits in today's meeting (if there is time), to save us having another meeting in a few days.

Thanks
[redacted]

From: [redacted] <[redacted]@dcceew.gov.au>
Sent: Tuesday, 2 May 2023 11:14 AM
To: [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@dcceew.gov.au>
Cc: [redacted] <[redacted]@dcceew.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@dcceew.gov.au>
Subject: RE: Financeability - Biodiversity [SEC=OFFICIAL]

Hi [redacted]

I hope you've also been well.

We are happy to discuss the context behind the recommendations for the depreciation of biodiversity offsets credits in either today's meeting or later in the week. We are available at 2pm on Thursday if that suits, or we are = happy to add some context today in the DCCEEW/AEMC catch up if there is time.

In relation to clauses S6A.1.3(7)(ii), S6A.1.3(7)(iv) and the Chapter 10 Glossary, I can confirm these were not intended to be omitted. The Commonwealth is comfortable with the AEMC's proposed TPIR rule drafting for these clauses.

If you have any more questions, we are happy to discuss.

Regards,
[redacted]

From: [redacted] <[redacted]@aemc.gov.au>
Sent: Tuesday, 2 May 2023 10:40 AM
To: [redacted] <[redacted]@dcceew.gov.au>; [redacted] <[redacted]@dcceew.gov.au>
Cc: [redacted] <[redacted]@dcceew.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>
Subject: RE: Financeability - Biodiversity [SEC=OFFICIAL]

Hi [redacted] and [redacted],

Alternatively we could discuss these things in our monthly DCCEEW-AEMC catch up at 1pm today, if you are able to discuss them then.

Regards
[redacted]

From: [redacted]
Sent: Tuesday, 2 May 2023 10:12 AM
To: [redacted] <[redacted]@dcceew.gov.au>; [redacted]@dcceew.gov.au
Cc: [redacted] <[redacted]@dcceew.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@aemc.gov.au>
Subject: RE: Financeability - Biodiversity [SEC=OFFICIAL]

Hi [redacted] and [redacted],

I hope you are going well!

Thank you very much Isaac for these contact details – and for noting that [redacted] will be taking over the work for the rule changes.

On the Financeability rule change, we would like to set up a meeting with your team this week to discuss the things below. Are you available during any of the following times?

- Wednesday 3 May: 11-2pm or 3-5pm
- Thursday 4 May: 2-5pm

We would like to discuss:

1. Your background on biodiversity offset credits to help frame the issue; and
2. Your proposed rule drafting, which does not appear to include three changes to the NER that were in the AEMC's proposed TPIR rule drafting on Financeability below. These are amendments to clauses S6A.1.3(7)(ii), S6A.1.3(7)(iv) and the Chapter 10 Glossary. We just want to check whether this difference in rule drafting was intended.
   https://www.aemc.gov.au/sites/default/files/2022-10/stage_2_proposed_rule_changes.pdf

https://www.aemc.gov.au/sites/default/files/2023-04/Commonwealth%20Minister%20for%20Climate%20Change%20and%20Energy%20-%20Financeability%20rule%20change%20request.pdf

S6A.1.3 Additional information and matters

A *Revenue Proposal* must contain at least the following additional information and matters:

...

(7) the depreciation schedules nominated by the *Transmission Network Service Provider* for the purposes of clause 6A.6.3, which categorise the relevant assets for these purposes by reference to well accepted categories such as:

(i) asset class (eg *transmission lines* and *substations*); or

(ii) category driver (eg *regulatory obligations or requirements*, replacement, *reliability*, net market benefit, and business support),

and also by location and whether or not the assets form part of an *actionable ISP project*, together with:

(iii) details of all amounts, values and other inputs used by the *Transmission Network Service Provider* to compile those depreciation schedules;

(iv) a demonstration that those depreciation schedules conform with the requirements set out in clause 6A.6.3~~(b);~~; and

(v) an explanation of the calculation of the amounts, values and inputs referred to in subparagraph (iii);

...

10. Glossary

...

initial request

Has the meaning given to it in clause 6A.6.3(h).

Regards

[redacted]

[redacted] Senior Adviser

Australian Energy Market Commission

D [redacted]

[redacted]@aemc.gov.au | www.aemc.gov.au

The Australian Energy Market Commission office is located on land traditionally owned by the Gadigal people of the Eora nation.

From: [redacted] <[redacted]@dcceew.gov.au>
Sent: Thursday, 27 April 2023 2:13 PM
To: [redacted] <[redacted]@aemc.gov.au>
Cc: [redacted] [redacted]@aemc.gov.au>; [redacted] <[redacted]@dcceew.gov.au>; [redacted] <[redacted]@dcceew.gov.au>
Subject: RE: Financeability - Biodiversity [SEC=OFFICIAL]

Hi [redacted]

I hope you've been going well!

DCCEEW moved on to a new IT system at the end of March and our email addresses now finish with @dcceew.gov.au rather than @industry.gov.au. Apologies this was not communicated to you earlier.

We spoke with [redacted] [redacted]@planning.nsw.gov.au) at NSW about the depreciation of biodiversity offset credits.

NSW and the CEFC have been working closely on this issue. [redacted] ([redacted]@cefc.com.au) is the best contact to speak to at the CEFC on this issue.

We would be eager to be involved in these conversations given the close alignment with the Rewiring the Nation program. We are also happy to have a preliminary discussion with you on the depreciation of biodiversity offset credits to help frame the issue.

Please also note, Jasper has recently begun long service leave. In his place, [redacted] (CC'd) will be taking over the work for rule changes in the team.

If you have any further questions, please feel free to get in touch.

Cheers,
[redacted]

[redacted]
Senior Policy Officer
Electricity Division | Networks Reforms and Projects |
Eora Country, L7 100 Market Street, Sydney 2000, GPO Box 3090, Canberra ACT 2601
Department of Climate Change, Energy, the Environment and Water
P [redacted] | **E** [redacted]@dcceew.gov.au
DCCEEWgov.au ABN 63 573 932 849

From: [redacted] <[redacted]@aemc.gov.au>
Sent: Thursday, 20 April 2023 9:56 AM
To: [redacted] <[redacted]@industry.gov.au>
Cc: [redacted] <[redacted]@aemc.gov.au>; [redacted] <[redacted]@industry.gov.au>
Subject: RE: Financeability - Biodiversity

HI [redacted]

Just following up on this. Given next week is a short week it would be good to get the ball rolling.

[redacted]

From: [redacted]
Sent: Monday, 17 April 2023 2:33 PM
To: [redacted]@industry.gov.au
Cc: [redacted]@industry.gov; [redacted] <[redacted]@aemc.gov.au>
Subject: Financeability - Biodiversity

Hi [redacted]

Hope you are both well.

I wanted to touch base on the biodiversity component of the financeability rule change.
I'll be managing this workstream moving forward and I'm trying to bring myself up to speed.

It's my understanding that you have had discussions with NSW on this issue prior to submitting the rule change request.
Would it be possible to get the contact details of who you spoke to at NSW so I can contact them and arrange a meeting?

If so, that would be excellent.

Cheers,

[redacted]

[redacted] (he/him)
Adviser
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

From: [redacted]
Sent: Tuesday, May 2, 2023 2:17 PM
To: [redacted] [redacted]@dcceew.gov.au; [redacted] [redacted]@dcceew.gov.au; [redacted] [redacted]@dcceew.gov.au
CC: [redacted]; Danielle Beinart
Subject: FW: EMBARGOED Final report - TPIR Stage 3- under embargo until 8am Thursday 4 May 2023
Attachments: EMBARGOED EPR008 - Final Report - TPIR Stage 3.pdf; EMBARGOED EPR008 - Info sheet - TPIR Stage 3.pdf; (Embargo) Final proposed rule drafting - Ex post review - TPIR - Copy.pdf

Good afternoon all

Attached are embargoed version of the Transmission planning and investment review final report, information sheet and proposed rule drafting for the changes to the economic assessment process and the targeted ex post review for ISP projects. Please do not distribute these as they are under embargo until 8am Thursday 4 May.

If you have any questions on the report or drafting, please reach out.

Thank you all for your input into TPIR, we have really enjoyed working with you all on it.

Kind regards,

[redacted]

[redacted] Director
Australian Energy Market Commission
D [redacted] | T [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000.

The Gadigal people of the Eora nation are the traditional owners of the land on which AEMC's office is located.

From: [redacted] <[redacted]@aemc.gov.au>
Sent: Tuesday, 2 May 2023 1:43 PM
Cc: [redacted] <[redacted]@aemc.gov.au>
Subject: EMBARGOED Final report - TPIR Stage 3

Documents attached to this email are embargoed until 8am, Thursday 4 May 2023

Good afternoon,

Please find attached the final report and info sheet for the following project, which will be published this Thursday, 4 May:

- **Final report, Stage 3 – Transmission planning & investment review (AEMC initiated) Project code: EPR0087**

If you have any questions, feel free to reach out to me or Alisa Toomey from the project team, copied into this email.

Kind regards,

[redacted]

[redacted]
Government Relations and Stakeholder Engagement Manager
Australian Energy Market Commission
D [redacted] | [redacted]
[redacted]@aemc.gov.au | www.aemc.gov.au

Level 15, 60 Castlereagh St, Sydney NSW 2000

AEMC

REVIEW

Australian Energy Market Commission

FINAL REPORT

TRANSMISSION PLANNING AND INVESTMENT REVIEW

4 MAY 2023

INSIDER TRADING LAWS MAY APPLY TO INFORMATION IN THIS DOCUMENT

INQUIRIES

Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

E aemc@aemc.gov.au
T (02) 8296 7800

Reference: EPR0087

CITATION

AEMC, Transmission planning and investment review, Final report, 4 May 2023

ABOUT THE AEMC

The AEMC reports to the Energy Ministers' Meeting (formerly the Council of Australian Governments Energy Council). We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the Energy Ministers' Meeting.

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SUMMARY

1 Transmission is a critical enabler for the transition to net zero, both in the national electricity market (NEM) and for the economy more broadly. This transition will require an unprecedented level of investment in, and build of, transmission infrastructure to deliver power from renewable generation and energy storage to consumers, and to deliver it quickly. The focus of the *Transmission planning and investment review* (TPIR or the Review) is to recommend improvements to the regulatory frameworks for transmission investment and planning to support efficient investment in and timely delivery of major transmission projects.

2 The Commission recommends changes to improve the regulatory process for projects identified in the Australian Energy Market Operator's (AEMO's) Integrated System Plan (ISP) in three key areas: the economic assessment process, the treatment of emissions reduction in transmission planning, and the application of the ex-ante regulatory framework for transmission investment to ISP expenditure.

3 This Stage 3 report is the final report of the Australian Energy Market Commission's (Commission or AEMC) *Transmission planning and investment review* and concludes this Review.

Our recommendations seek to facilitate timely and efficient investment in and delivery of ISP projects

Improving the economic assessment process by more and earlier planning activities and considering further reform opportunities

4 The Commission recommends rule changes to encourage transmission network service providers (TNSPs) to undertake more planning activities earlier in the economic assessment process. More and earlier planning activities could reduce delays to later project stages by improving the building of social licence and earlier identification of potential project barriers. The recommendations:

- provide greater certainty to TNSPs that the cost of undertaking early works can be recovered by enabling a separate contingent project application (CPA) for early works to be submitted to the AER without the need to first complete a regulatory investment test for transmission (RIT-T) and pass the feedback loop
- introduce a National Electricity Rules (NER) definition of early works to underpin the AER's assessment of an early works CPA to protect consumers against inefficient expenditure
- clarify that AEMO can specify, in the ISP, examples of preparatory activities and early works for actionable ISP projects.

5 These recommendations complement our Stage 2 final recommendations on social licence.

6 The Commission also considers that there may be further opportunities to reinforce the ISP as the central process for considering the net benefits of the group of projects that form the optimal development path (ODP) and the RIT-T to focus on improving the robustness of efficient cost estimates of an individual project identified in the ISP.

Harmonising the NER with the inclusion of emissions reduction in the national energy objectives

7 The national energy objectives will soon include emissions reduction targets as a consideration relating to the long-term interests of consumers, alongside the existing considerations of price, quality, safety, reliability and security. The Commission recommends a rule change process to harmonise the NER, including rules relating to transmission planning. This would ensure the NER remains consistent with the intent of the national energy objectives once an emissions objective is introduced.

Introducing a targeted ex-post review for ISP projects to reduce risk and uncertainty around the treatment of capex

8 The Commission recommends a rule change process to introduce a targeted ex post review mechanism for capital expenditure (capex) incurred on completed ISP projects. This would address the potential additional risk associated with ISP projects when expenditure is significant and the risk of overspending is greater.

The Commission has considered stakeholder feedback in making its recommendations

9 Extensive and constructive stakeholder engagement informed our understanding of issues, identification of areas for improving the existing regulatory process, and consideration of practical issues and constraints to different reform options. For example:

- Stakeholder feedback to the Stage 3 draft report and continued close collaboration with the market bodies and other stakeholders shaped our **economic assessment process** recommendations. The Commission's recommended changes to carry out more and earlier planning activities are strongly supported by stakeholders. Conversely, stakeholders concerns with more holistic reform to the economic assessment process influenced our recommendation to undertake further work on this in our upcoming ISP review.
- Stakeholders broadly supported more explicit incorporation of **emissions reduction** into the regulatory framework for transmission planning and sought clarity around changes which may be required to support the emissions reduction objective.
- TNSPs initially identified potential issues with applying the existing **ex post review mechanism** to ISP projects. Further consultation with the AER identified additional areas for improvement and informed the final recommendations.

We have considered our recommendations against this Review's assessment criteria

10 Considering the national electricity objective (NEO) and the issues explored in this Review, the Commission identified the following assessment criteria to be most relevant when developing its recommendations: outcomes for consumers, economic efficiency, implementation, flexibility and decarbonisation. Our recommendations, if implemented, would help promote the NEO by:

Supporting timely and efficient project delivery to promote better outcomes for consumers

11 Our recommended changes to the economic assessment process would contribute to better outcomes for consumers by supporting timely and efficient project delivery. The recommendations support TNSPs to undertake increased prepatory activities and to bring early works forward. More extensive and earlier planning for ISP projects could mitigate the risk of significant project cost increases later in the delivery process and further costs associated with project delays because of later consideration of these factors. Better upfront planning may also enable TNSPs to mitigate the risk of supply chain delays and labour supply issues.

12 The recommended introduction of a targeted ex post review for ISP projects reduces risk and uncertainty, promoting efficient delivery of major transmission projects and helping to ensure consumers pay efficient costs.

Improving economic efficiency through clear, consistent and predictable rules

13 Our recommendations contribute to clear, consistent, predictable rules, which improve economic efficiency by reducing uncertainty, risk and costs for market participants:

- The recommended reform to the economic assessment process provides TNSPs with greater certainty around cost recovery for early works.
- An emissions reduction harmonising rule change would ensure clarity for stakeholders in how market bodies and market participants will factor emissions reduction into their decision-making.
- Introducing a targeted ex post review provides clarity as to how the AER would assess potential overspend on ISP projects and reduces risk for TNSPs around the treatment of non-ISP capex where an ISP project capex overspend has occurred.

Implementation considerations shaped the recommendations

14 Our recommendations to introduce a targeted ex post review and harmonising rule changes to reflect inclusion of an emissions reduction objective under the energy objectives would reduce the administrative burden on market bodies and market participants in applying the NER. Stakeholder concerns regarding implementation challenges influenced the Commission's recommendation to undertake work on further reform of the economic assessment process in the AEMC's ISP review.

Our recommendations retain flexibility in a rapidly changing environment

15 The ability of the planning and investment framework to remain flexible in the face of market uncertainty and evolution were key considerations in the Commission's decision-making process. The economic assessment process recommendations would encourage TNSPs to progress early works earlier and in parallel with the RIT-T, making delivery of the preferred option more adaptive to changes in conditions. Our recommendation to investigate further reform of the economic assessment process under the AEMC's ISP review enables us to first assess the implementation of other recommendations in this Review before further changes are made.

The recommendations directly facilitate decarbonisation

16 The proposed reform to the economic assessment process would reduce the risk of transmission delays, supporting timely connection of the additional wind and solar generation required for the transition to net zero. An emissions reduction harmonising rule change would further help to ensure that transmission investment decisions transparently balance emissions, price, quality, safety, reliability and security, supporting the energy transition to net zero.

We recommend a 'progressive' approach to implementing our recommendations

17 The Commission considers the recommendations made across Stage 2 and 3 of this Review will significantly improve the transmission planning and investment framework. We have also identified further reform opportunities in terms of more holistic and substantive reform to the economic assessment process. However, we consider the Stage 2 and 3 recommendations should be implemented first before considering more substantive changes to the regulatory framework as part of the AEMC's upcoming ISP review.

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1 THE COMMISSION HAS MADE FINAL RECOMMENDATIONS

1.1 Our recommendations seek to support timely and efficient investment in and delivery of major transmission projects

Transmission infrastructure is a critical enabler of the transition to net zero, both in the National Electricity Market (NEM) and the economy more broadly. This transition will require an unprecedented level of investment in, and build of, transmission infrastructure to deliver power from renewable generation and energy storage to consumers.

The current regulatory framework was developed and has evolved over a period of incremental growth of the grid where the framework sought to minimise the risk of overbuilding, rather than the current required pace of step-change growth set out in the Australian Energy Market Operator's (AEMO's) Integrated System Plan (ISP).

The objective of the Australian Energy Market Commission's (Commission or AEMC) *Transmission planning and investment review* (TPIR or the Review) is to ensure the regulatory framework facilitates timely delivery while maintaining an adequate level of rigour, to ensure future transmission investment is in the long-term interest of consumers.

A key focus of the Review is on timeliness, as delayed investment in transmission infrastructure would come at a cost to consumers. With transmission investment occurring earlier rather than later, cheaper renewable energy sources (wind and solar) can be unlocked for consumers, reducing emissions and prices. Without transmission, consumers need to pay for more expensive capacity (gas and storage).

The Commission's preliminary modelling found that wholesale prices would be higher and reliability outcomes worse across the NEM over the period 2028-2034 if ISP projects were delayed by two years, without extension of coal generators beyond their expected retirement dates.[1] Delays to ISP projects would otherwise require additional generators to enter (above those already forecast) or the extension of coal generators to reduce the impact on wholesale prices. The extension of coal generators would increase emissions and delay the transition to net zero.

Against this background, the Commission has made recommendations in three key areas to improve the regulatory process with regard to ISP projects: the economic assessment process, the treatment of emissions reduction in transmission planning, and the application of the ex-ante regulatory framework for transmission investment to ISP expenditure. The recommendations seek to improve timeliness through earlier identification and resolution of possible barriers to investment and delivery, facilitate more efficient decision-making by increasing certainty for stakeholders, and reflect the emissions reduction imperative in transmission planning.

The Commission considers the recommendations made across Stages 2 and 3 of this Review will significantly improve the transmission planning and investment framework. We have also

1 Internal PLEXOS modelling based on the 2022 ISP model. ISP projects were delayed by two years, with all else held equal.

identified further reform opportunities in terms of more holistic and substantive reform to the economic assessment process. However, we consider the Stage 2 and 3 recommendations should be implemented before considering more substantive changes to the regulatory framework.

The following sections provide an overview of our Stage 3 final recommendations.

1.1.1 Improving the economic assessment process by bringing planning activities forward and considering further reform opportunities

The economic assessment process for ISP projects identifies and assesses credible options for transmission investment and selects the preferred option based on a cost-benefit analysis. The Commission recommends rule changes to reform the economic assessment process for ISP projects to facilitate timely delivery of these projects, along with continued investigation of further reform opportunities:

- We recommend a rule change process to better enable transmission network service providers (TNSPs) to undertake more planning activities earlier in the economic assessment process. More and earlier planning activities will improve the quality of information available to TNSPs when identifying and assessing transmission investment options and reduce the likelihood of unnecessary or higher costs being incurred later in the process such as the costs associated with delays or addressing impacts on communities and the environment.
- The Commission also considers that there may be further opportunities to reinforce the ISP as the central process for considering the net benefits of the group of projects that form the ODP and the regulatory investment test for transmission (RIT-T) to focus on improving the robustness of efficient cost estimates of a project identified in the ISP. The Commission acknowledges the concerns raised by stakeholders that there are further issues to work through. Therefore, the Commission recommends progressing this work on these further opportunities in the AEMC's upcoming ISP review.[2]

Chapter 2 sets out our recommendations for reform of the economic assessment process for ISP projects in more detail. The Commission has published indicative rule drafting for our planning activities recommendations with this final report.

1.1.2 Harmonising the NER with the inclusion of emissions reduction in the national energy objectives

The national energy objectives will soon include emissions reduction targets as one of the considerations relating to the long-term interests of consumers, alongside the existing considerations including price, quality, safety, reliability and security. The Commission recommends a rule change process to harmonise the National Electricity Rules (NER) with this change to the national energy objectives. This would ensure the NER remain consistent with the intent of the national energy objectives once an emissions component is introduced. A harmonisation process would support consistency and transparency around the treatment of emissions in transmission planning.

2 Under clause 11.126.10 of the NER, the AEMC has an obligation to undertake a review of the ISP framework.

Chapter 3 further discusses this issue and provides illustrative examples of transmission planning provisions in the NER where harmonising changes (such as references to the emissions component of the objective) may be beneficial.

1.1.3 Introducing a targeted ex post review for ISP projects to reduce risk and uncertainty around the treatment of capex

The Commission recommends a rule change process to introduce a targeted ex post review mechanism for capital expenditure (capex) incurred on completed ISP projects. The new mechanism for review of ISP capex would be separate to the existing ex post review mechanism. The existing mechanism would remain largely the same in terms of process, but would be limited to apply only to capex incurred on non-ISP projects over the five-year ex post review period.

This proposed rule change will address the potential additional risk associated with ISP projects when expenditure is significant and the risk of overspending is greater. If the Australian Energy Regulator (AER) reviews ISP capex separately from non-ISP capex, it would help the AER improve the effectiveness of its ex post reviews, which are a consumer safeguard. The recommended change would also assist TNSPs to manage risk and uncertainty associated with ISP expenditure and the current ex post review mechanism, which would promote efficient delivery of major transmission projects.

Chapter 4 further discusses this issue and outlines the proposed model. The Commission has published indicative rule drafting with this final report.

1.1.4 A separate rule change process focuses on concessional finance

The Stage 3 draft report recommended the national regulatory framework should provide greater clarity on the treatment of benefits from concessional finance. In April 2023 we received a rule change request that focuses on this issue from the Commonwealth Minister for Climate Change and Energy. We expect to commence this rule change process imminently. More information is available at the project page on our website.[3]

1.1.5 The Commission is not progressing the development of a timely delivery incentive

The Commission sought stakeholder feedback on the potential development of a timely delivery incentive (TDI) in the Stage 3 draft report. This was raised as a potential solution to mitigate against the risk of TNSPs delaying investment in, and delivery of, major transmission projects.

Other AEMC reforms recommended under this Review and existing jurisdictional levers address many of the concerns around TNSP incentives to make timely investment decisions and, once the decision is made, to deliver projects on time. The Commission considers that it is important to give these reforms time to mature before determining whether there is a case for further intervention, such as introducing a TDI. Further, stakeholder feedback was that

3 See here.

there is a lack of evidence of a problem and that designing a framework to support a TDI would be challenging.

Appendix A provides an overview of the problem the TDI was seeking to solve and the Commission's reasons for ceasing work on the TDI, having regard to stakeholder feedback.

1.2 Regular engagement with stakeholders throughout the Review shaped our recommendations

The Commission undertook regular engagement with a broad spectrum of stakeholder groups throughout the Review across a range of forums, including:

- regular working, advisory and reference group meetings with market bodies, jurisdictions and consumer representatives
- workshops, public forums and significant bilateral and multilateral engagement, which included consumer and community representatives, industry groups, TNSPs, generators and retailers and renewable energy developers/investors
- formal written feedback to the consultation paper and Stage 3 draft report.

This extensive and constructive stakeholder engagement shaped the Commission's final recommendations: stakeholder feedback informed the Commission's understanding of issues, identification of areas for improving the existing regulatory process, and consideration of practical issues and constraints to different reform options. For example:

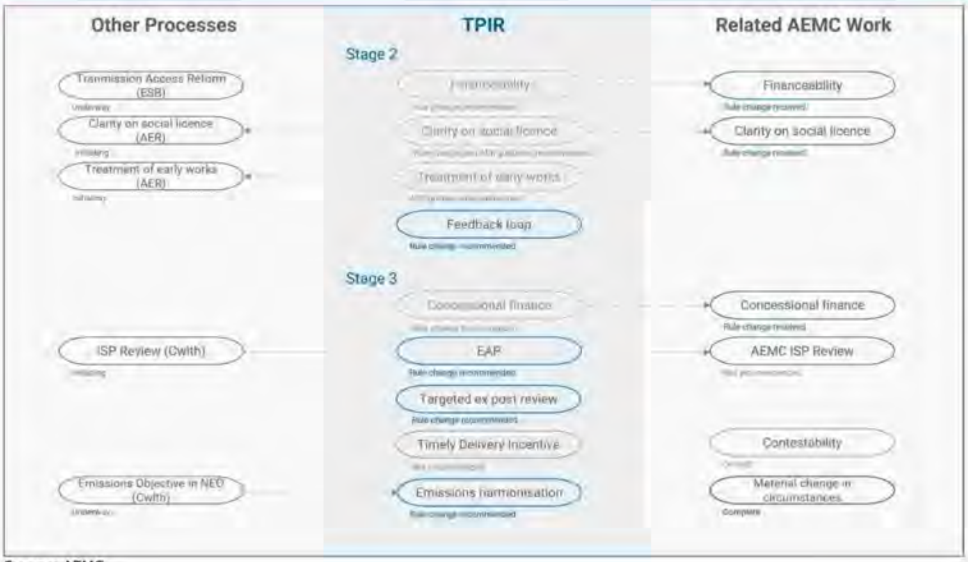
- Stakeholder feedback to the Stage 3 draft report helped the Commission narrow the options to reform the economic assessment process. Continued close collaboration with the market bodies and other stakeholders then further shaped our economic assessment process recommendations. The Commission's recommended changes to bring forward planning activities are strongly supported by stakeholders. Conversely, stakeholder feedback identified a number of implementation concerns with more holistic reform to the economic assessment process, which is reflected in our recommendation to undertake further work on this in our upcoming ISP review.
- Stakeholders broadly supported more explicit incorporation of emissions reduction into the regulatory framework for transmission planning and sought clarity around changes which may be required to support the emissions reduction objective.
- TNSPs initially identified potential issues with applying the existing ex post review mechanism to ISP projects. Further consultation with the AER identified additional areas for improvement and informed the final recommendations.

How stakeholder feedback shaped recommendations for each of our workstreams is discussed in more detail in the following chapters.

1.3 The Stage 3 final report is part of a larger body of work to support the transition to net zero

The recommendations in this Stage 3 final report are part of a larger transmission work program. Figure 1.1 places the Review's Stage 3 recommendations in the broader context of transmission reform.

Figure 1.1: The Review's recommendations are part of a broader suite of transmission reforms



Source: AEMC.

1.3.1 Our Stage 3 Final report concludes TPIR and builds off our Stage 2 final report

Our Stage 3 final report concludes the Commission's TPIR. We published the *Transmission Planning and Investment – Stage 2 Final Report* on 27 October 2022. The Stage 2 final report made four recommendations that complement our Stage 3 final recommendations:

- Introducing greater flexibility to mitigate the foreseeable risk that **financeability** concerns may arise for ISP projects. A rule change request to assess this matter further has been received by the Commonwealth Minister for Climate Change and Energy. More information is available on the project page on our website.[4]
- Providing greater clarity around **social licence** outcomes in the national framework through additional guidance from the AER and a rule change process to ensure TNSPs take a consistent approach to community engagement for ISP projects. Our recommendations under the economic assessment process workstream would further

4 See here.

support social licence outcomes through better planning activities (see chapter 2 of this report). A rule change request to assess this matter further has been received. More information is available on the project page on our website.[5]

- Clarifying the meaning of **early works** through additional guidance from the AER. Our recommendations under the economic assessment process workstream would further support increasing clarity around cost recovery of early works (see chapter 2 of this report).
- Improving **the workability of the feedback loop** to enable it to work as a timely and effective consumer safeguard. This recommendation would need to be implemented through a rule change process.

1.3.2 The Commission will not progress work on the contestability workstream at this time

The Commission considered the introduction of contestability in the provision of transmission services as part of this Review. The Commission published the *Transmission Planning and Investment Review – Contestability Directions paper* on 24 November 2022.[6] It concluded the value of a national contestability framework is likely to be limited at present due to the various jurisdictional regimes in place or being developed. The Commission is not proposing to progress this workstream further at this time.

1.3.3 The *Material change in network infrastructure project costs* rule change is complete

The *Material change in network infrastructure project costs* rule change focused on cost estimate accuracy and transparency, complementing the Review's economic assessment process workstream. The Commission published a more preferable final rule and final determination on 27 October 2022.[7]

1.3.4 The Commonwealth Government is progressing reform to include emissions reduction in the national energy objectives

As discussed above, the Commonwealth Government is proposing to include in the national energy objectives the achievement of Commonwealth, State or Territory targets for reducing greenhouse gas emissions. The proposed change would include emissions reduction in the economic efficiency framework of the national energy objectives.

This reform would trigger the need for a harmonising rule change as recommended in chapter 3 of this report.

1.3.5 AEMC and Commonwealth ISP reviews

The Commonwealth Government has indicated its intention to undertake a review of AEMO's ISP in the near term to ensure it is fit-for-purpose and explore opportunities to better integrate planning regimes across different energy sources, such as electricity and gas.[8]

5 See here.

6 AEMC, *Transmission planning and investment review - Contestability, Directions paper*, 24 November 2022.

7 AEMC, *Material change in network infrastructure project costs*, final rule determination, 27 October 2022. See here.

8 Energy Ministers Communique, 28 October 2022, p. 2.

The AEMC also has a statutory obligation to undertake a review of the ISP framework.[9] The Commission intends to consider further reform of the economic assessment process outlined in Chapter 2 in its ISP review, among other topics. The final scope of the Commission's ISP review will be informed by the Commonwealth Government's ISP review findings and recommendations.

1.3.6 Transmission Access Reform

The Energy Security Board's (ESB) work on transmission access reform is a separate area to this Review but is critically important to optimise the use of the transmission network and avoid overspend in building the network that customers pay for. Transmission access reform is designed to provide locational signals to generators, storage and scheduled load to locate in areas with available and proposed transmission capacity, as well as dispatch signals to use that network at lowest cost. The ESB considers that transmission access reform is required to get the maximum usage and value from the transmission system, where variable renewable energy and storage are the primary power supply. This will make sure that congestion on the network is efficiently managed and the network is used effectively. In February 2023, Energy Ministers requested the ESB to develop the congestion relief model and priority access ahead of bringing forward a detailed design for consideration by Ministers in mid-2023.[10]

1.4 How we have applied the national electricity objective to our recommendations

In conducting reviews, the Commission must have regard to the relevant energy objectives. For this Review, the relevant energy objective is the national electricity objective (NEO):[11]

> **BOX 1: NATIONAL ELECTRICITY OBJECTIVE**
>
> 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.

Source: *National Electricity (South Australia) Act 1996.*

The Commission has developed its recommendations in this Stage 3 final report having had regard to the NEO. More specifically, we used the assessment framework criteria summarised in Table 1.1 to assess whether the Stage 3 final recommendations promote the NEO:

9 Clause 11.126.10 of the NER.

10 Energy and Climate Change Ministerial Council, Meeting Communique, 24 February 2023, p. 2.

11 Section 7 of the National Electricity Law.

Table 1.1: Assessment framework criteria

CRITERIA	EXPLANATION
Outcomes for consumers	• Assesses whether the regulatory arrangements promote and appropriately balance the timely and efficient delivery of transmission projects.
Economic efficiency	• Assesses whether the solution promotes efficient investment in, and use of, electricity services in the long term interests of consumers with regard to: • **Efficient risk allocation:** allocating risk (and costs) to parties best placed to manage them and who have the incentives to do so will support efficient decision-making. • **Effective price signals/incentives:** effective incentives are needed to support service providers in making efficient and timely investment decisions. • **Information provision/transparency:** service providers require clear adequate information to inform decision-making in an evolving market. • **Clear, consistent, predictable rules:** a stable regulatory environment creates confidence in the market and will encourage investment and innovation through the transition and beyond. • Evaluates whether the solution provides service providers with a reasonable opportunity to recover at least their efficient costs.
Implementation	• Considers the complexity of implementing a solution, ie whether it will require law and rule changes or other jurisdictional legislative changes. • Assesses the costs of implementing a solution (practical implementation and compliance costs) • Evaluates the timing of costs and benefits.
Flexibility	• Assesses whether the solution is consistent with the long-term direction of energy market reform. • Evaluates whether the solution is flexible enough to accommodate uncertainty regarding unknown technological, policy and other changes that may eventuate.
Decarbonisation	• Considers whether market arrangements will enable the decarbonisation of the energy market.

Source: AEMC.

1.4.1 Improved outcomes for consumers are central to the Review

Our recommended changes to the economic assessment process would contribute to better outcomes for consumers by supporting timely and efficient project delivery. The recommendations support TNSPs to undertake increased preparatory activities and to bring early works forward. More extensive and earlier planning for ISP projects could mitigate the risk of significant project cost increases later in the delivery process and further costs associated with project delays because of later consideration of these factors. Bringing these activities forward may also enable TNSPs to mitigate the risk of supply chain delays and labour supply issues.

The recommended introduction of a targeted ex post review for ISP projects reduces risk and uncertainty, promoting efficient delivery of major transmission projects and helping to ensure consumers pay efficient costs.

1.4.2 Our recommendations improve economic efficiency

Clear, consistent and predictable rules improve economic efficiency by reducing uncertainty, risk and costs for market participants. The Stage 3 recommendations contribute to clear, consistent, predictable rules:

- The recommended reform to the economic assessment process provides TNSPs with greater certainty around cost recovery for early works. Greater cost recovery certainty upfront supports more efficient investment decisions and ultimately may reduce overall project costs by de-risking later project stages.
- An emissions reduction harmonising rule change would ensure clarity for stakeholders in how market bodies and market participants will factor emissions reduction into their decision-making. A consistent approach to considering emissions reduction in the transmission planning and investment framework reduces administrative burden for market bodies and market participants.
- Introducing a targeted ex post review provides clarity as to how the AER would assess potential overspend on ISP projects and reduces risk for TNSPs around the treatment of non-ISP capex where a TNSP has overspent on an ISP project. Lower risk and uncertainty for TNSPs promotes efficient delivery of major transmission projects.

1.4.3 Implementation considerations shaped the recommendations

Our recommendations, especially to introduce a targeted ex post review and harmonising rule changes to reflect inclusion of an emissions reduction objective, would reduce the administrative burden on market bodies and market participants in applying the NER. Stakeholder concerns regarding implementation challenges influenced the Commission's recommendation to consider further reform of the economic assessment process under the ISP review where further investigation and consultation can occur.

1.4.4 Recommendations retain flexibility in a rapidly changing environment

The Stage 3 recommendations align with the long-term direction of the energy market. The ability of the planning and investment framework to remain flexible in the face of market uncertainty and evolution were key considerations in the Commission's decision-making process. The recommendations retain or improve flexibility in the following ways:

- The economic assessment process recommendations would encourage TNSPs to progress early works earlier and in parallel with the RIT-T. This would lead to earlier identification of issues, enabling delivery of the preferred option to be more adaptive to on-the-ground conditions. The Commission's recommendation to consider further reform to the economic assessment process under the AEMC's ISP review enables us to develop further reform based on considering the implementation of other recommendations in this Review.
- The proposed targeted ex post review provides greater flexibility in the framework to assess ISP projects that may span more than one review cycle.

1.4.5 The recommendations directly facilitate decarbonisation

Timely delivery of transmission is an essential enabler of economy-wide emissions reduction. The proposed reform to the economic assessment process would reduce the risk of transmission delays, supporting timely connection of the additional wind and solar generation required for the transition to net zero.

An emissions reduction harmonising rule change would help to ensure that transmission investment decisions transparently balance emissions, price, quality, safety, reliability and security, supporting the energy transition to net zero.

2 IMPROVING THE ECONOMIC ASSESSMENT PROCESS TO FACILITATE TIMELY AND EFFICIENT DELIVERY OF TRANSMISSION PROJECTS

BOX 2: KEY RECOMMENDATIONS

The Commission's recommendations aim to encourage TNSPs to efficiently undertake more planning activities earlier. This will improve the quality of information available to TNSPs when identifying and assessing transmission investment options and reduce the likelihood of unnecessary or higher costs being incurred later in the process such as the costs associated with delays or addressing impacts on communities and the environment.

We recommend rule changes to:

- Enable TNSPs to submit an early works contingent project application (CPA) without needing to first complete a RIT-T and pass the feedback loop. This provides TNSPs with earlier cost recovery certainty and an incentive to undertake early works concurrently with the RIT-T.
- Introduce a NER definition of early works to underpin the AER's assessment of an early works CPA to protect consumers against inefficient expenditure.
- Clarify that AEMO can specify, in the ISP, examples of preparatory activities and early works for actionable ISP projects.

The Commission considers that based on the reforms already underway in relation to Stage 2 and Stage 3 of TPIR (enable earlier cost recovery for early works and encourage TNSPs to undertake a broader range of social licence activities and preparatory activities), the quality of the information available to TNSPs and AEMO in planning processes, including the ISP, will be of higher quality. This will likely lead to only rare circumstances where a further credible option is identified at the RIT-T stage, and where it is, that the gross market benefits are unlikely to be materially different to the options already included in the ISP's optimal development path.

On this basis the Commission considers that there may be further opportunity to reinforce the ISP as the central process for considering the net benefits of the group of projects that form the ODP and the RIT-T to focus on improving the robustness of efficient cost estimates of an individual project identified in the ISP. However, the Commission acknowledges the concerns raised by stakeholders that there are further issues to work through. Therefore, the Commission recommends progressing work on these further opportunities in the AEMC's upcoming ISP review, which will enable us to consider further and new information.

2.1 The Commission recommends improvements to the economic assessment process for ISP projects

2.1.1 Our recommendations support the objectives of the Review

The Commission recommends rule changes to encourage TNSPs to efficiently undertake more planning activities earlier in the economic assessment process.[12] The Commission also recommends consideration of further reform opportunities through the AEMC's subsequent ISP review to develop what we consider could be a more efficient and timely economic assessment process.

The Commission's recommendations promote better outcomes for consumers

The Commission's recommendations support cost recovery certainty for efficient and earlier planning activities. Undertaking more planning activities, earlier in the process would enable TNSPs to develop options for transmission investment that more accurately reflect social, cultural, heritage and environmental impacts. This would mitigate the risk of later project cost increases and project delays because of later consideration of these factors.[13] Bringing these activities forward could also mitigate the risk of additional costs to consumers due to supply chain delays and labour supply issues.[14]

We consider that, on balance, incurring greater costs of planning earlier in the process will significantly benefit consumers by avoiding greater costs to consumers in the future. Section 2.2.1 describes our recommendations to increase cost recovery certainty on planning activities for TNSPs, ultimately leading to lower cost and therefore better outcomes for consumers.

The Commission's recommendations support economic efficiency

Our recommendations support economic efficiency through better information and transparency on what planning activities are beneficial and efficient to undertake. This will help to inform TNSPs' and the AER's decisions on the efficient level of planning activities by:

- clarifying that AEMO can specify in the ISP examples of preparatory activities and early works for actionable ISP projects, and
- introducing a NER definition of early works to underpin the AER's assessment of an early works CPA to protect consumers against inefficient expenditure.

Section 2.2.2 and section 2.2.3 describes these proposed reforms in more detail.

The Commission's recommendations promote flexibility

The Commission considers that there may be further opportunity to reinforce the ISP as the central process for considering the net benefits of the group of projects that form the ODP

12 AEMO Victorian Planning (AVP) is responsible for the planning of the Victorian transmission network. In this chapter, for ease of reading, the term 'TNSP' encompasses AVP's Victorian planning role.

13 A project could increase in cost because initial cost estimates did not reflect the costs of aligning the project with environmental planning requirements. For example, the costs of biodiversity offsets or amending a line route to facilitate better environmental outcomes.

14 For example a TNSP could purchase equipment which will be needed regardless of the preferred option ultimately selected to avoid costs associated with equipment supply chain delays.

and the RIT-T to focus on improving the robustness of efficient cost estimates of an individual project identified in the ISP.

These opportunities for further reform would build on the foundation of reforms we have proposed under TPIR Stage 2 and 3 in relation to social licence and bringing cost recovery for planning activities for ISP projects forward. Exploring more holistic reform opportunities in the AEMC's upcoming ISP review will retain flexibility to consider the impact of the new arrangements once they are in place and allow us to have regard to other changes that may happen in the near-term, for example any changes to the economic assessment process that will come out of the Commonwealth's ISP review.[15] section 2.3 describes our recommendation in more detail.

The Commission's recommendations support emissions reduction

Our recommendations support emissions reduction through more timely delivery of the transmission infrastructure required to facilitate increased grid connection of renewable energy. Our recommendations to incentivise more and earlier planning activities seek to improve the timeliness of transmission delivery. Our recommendation to further consider opportunities to streamline the economic assessment process could lead to additional improvements.

2.1.2 Stakeholder feedback and the need for timely delivery of ISP projects has shaped our recommendations

Stakeholder submissions to the Stage 3 draft report indicated strong support for exploring how the economic assessment process can better support the timely and efficient delivery of actionable ISP projects. Particularly, stakeholders expressed strong support for changes that incentivise TNSPs to efficiently undertake more planning earlier in the process.[16]

The Stage 3 draft report set out three high-level strawperson options, as a starting point for exploring ways to improve the timeliness of the economic assessment of ISP projects, whilst maintaining an appropriate level of rigour.[17] We developed the strawperson options in close consultation with the market bodies and sought input from jurisdictional governments, consumer groups, TNSPs and other stakeholders. Based on stakeholder feedback, we developed our final recommendations to:

- bring forward planning activities in line with strawperson options 1 (more and earlier planning activities). and
- consider further improvements to the economic assessment process as part of the ISP review in line with strawperson 2 (centralising benefits assessment in the ISP).[18]

Box 3 summarises the strawperson options we consulted on in the Stage 3 draft report.

15 Chapter 1 provides further details on the AEMC's ISP review.

16 Submissions to the draft report: AusNet, p. 2; Clean Energy Investor Group (CEIG), p. 2; Marinus Link Pty Ltd (MLPL), p. 3; TasNetworks, p. 2; Transgrid p. 2; RE-Alliance (REA) p. 2; Clean Energy Council (CEC), p. 2.

17 Appendix B shows the existing economic assessment process for major transmission projects.

18 Stakeholders broadly did not support further consideration of strawperson option 3, reflecting a range of concerns in relation to its practicality. The Commission considered concerns raised by stakeholders, and decided not to pursue strawperson option 3 further through this Review.

BOX 3: DRAFT REPORT STRAWPERSON OPTIONS

The Stage 3 draft report described three high-level strawperson options, reflecting a spectrum of alternatives to the current arrangements:

- *Strawperson option 1* – retained the core features of the existing process. However, TNSPs would be able to submit an early works CPA prior to completing a RIT-T, to seek a regulatory allowance for undertaking early works concurrently with the RIT-T.
- *Strawperson option 2* – centralised the net benefits assessment of credible options in the ISP process. TNSPs would focus on exploring the credibility and refining the costs of these options in greater detail, in consultation with stakeholders. TNSPs would select the lowest-cost credible option as the preferred option.
- *Strawperson option 3* – introduced a more frequent ISP process to identify credible options and select the preferred option, whilst completely removing the RIT-T. Strengthened joint planning arrangements would facilitate high-quality input from TNSPs into the ISP analysis.

Source: AEMC, *Transmission planning and investment review - Stage 3, Draft Report*, 21 September 2022, pp. 40-44.

Our recommendations reflect stakeholder support to bring planning activities forward

Stakeholders expressed strong support throughout the consultative process for reform that brings forward planning activities to better inform investment decisions and reduce the risk of later cost increases (strawperson option 1).[19] Stakeholders considered that planning activities help to build and maintain social licence for major transmission projects, which mitigates delivery risk, improves transparency for stakeholders, and improves confidence that the preferred option is deliverable.[20] For example, AusNet considered that early works activities commencing earlier, such as corridor assessment and stakeholder engagement planning, will help improve confidence in transmission planning activities and reduce the risk of project delays.[21] Stakeholders also considered that strawperson option 1 would encourage TNSPs to undertake more planning activities earlier by providing TNSPs with the certainty that they can recover the costs for efficient planning activities.[22]

The Commission agrees with stakeholders that bringing forward planning activities could have significant benefits in terms of reducing the risk of later increases in project costs and facilitating timely delivery of ISP projects. Some stakeholders have suggested refinements to strawperson option 1, which we have incorporated into our final recommendations.[23]

Stakeholders influenced our identification of additional reform opportunities and highlighted

19 Submissions to the Stage 3 draft report: AusNet, p. 2; MLPL, p.3; AEMO, p. 4-5; REA, p. 7; CEC, p.2; TasNetworks, p. 2.

20 Submissions to the Stage 3 draft report: AusNet, pp. 11-12; ENA, p. 5; AER, pp. 3-4; AGL, p.3; Origin, p. 2; TasNetworks, p. 2; MLPL, p. 3.

21 AusNet, submission to the Draft report, p. 11-12.

22 Submissions to the Stage 3 draft report: Transgrid, p. 2; AEMO, p. 5-6.

23 Submissions to the Stage 3 draft report: AusNet, p. 11-12; ENA, p. 5; AER, p. 3-4; AGL, p.3; Origin, p. 2; TasNetworks, p. 2; MLPL, p. 3.

further work is required

Many stakeholders supported exploring more holistic changes to the economic assessment processes based on a centralised net benefits assessment in the ISP and TNSPs refining the costs of credible options, i.e strawperson option 2.[24] Several submissions highlighted that a single centralised process for assessing the benefits of ISP projects could improve transparency for stakeholders,[25] or suggested that AEMO may be best placed to assess system-wide benefits.[26] Stakeholders suggested that strengthened joint planning arrangements could ensure TNSPs' local knowledge informs a more centralised benefits assessment.[27]

However, stakeholder submissions also noted the need for more detailed analysis of strawperson option 2. For example, some submissions highlighted potential risks in relation to the rigour of the economic assessment.[28] Others noted concerns in relation to selecting the preferred option on the basis of the lowest cost[29] and the ISP's ability to consider local network impacts.[30] In particular TNSPs were not in favour of considering strawperson option 2 any further due to the above-mentioned issues.[31]

The Commission has consulted in detail with stakeholders to further develop reform which builds on the design of strawperson option 2 and assessed the associated risks and opportunities. This has led us to identify additional reform opportunities to expand the ISP analysis, enhance joint planning arrangements, and removing the net benefits assessment from the RIT-T.[32] Section 2.3 describes these additional reform opportunities in more detail.

2.1.3 Our Stage 2 and 3 recommendations collectively improve timely and efficient delivery

The Commission made several reform recommendations in the Stage 2 final report to clarify and improve the economic assessment process. We made recommendations to improve social licence building, clarify the regulatory treatment of planning activities and improve the workability of the feedback loop.[33] Figure 2.1 illustrates how our Stage 3 recommendations (discussed in chapter 2) complement our TPIR Stage 2 recommendations and collectively facilitate timely and efficient delivery of ISP projects.

24 Submissions to the Stage 3 draft report: AGL, p. 3; Public Interest Advocacy Centre (PIAC), p. 3; REA, p. 8; AEMO, p. 8; AEC, p. 2; Origin, p. 1; CEIG, p. 2; Tilt Renewables, p. 2.

25 Submissions to the Stage 3 draft report: REA, p. 8; AEMO, p. 6-7; PIAC, p. 3.

26 AGL, submission to the Stage 3 draft report, p. 3.

27 PIAC, submission to the Stage 3 draft report, p. 3.

28 Submissions to the Stage 3 draft report: AER, p. 3; AEMO, p. 7-8; AusNet, p. 7; MLPL, p. 3.

29 Submissions to the Stage 3 draft report: AEC, p. 2; Origin, p. 2.

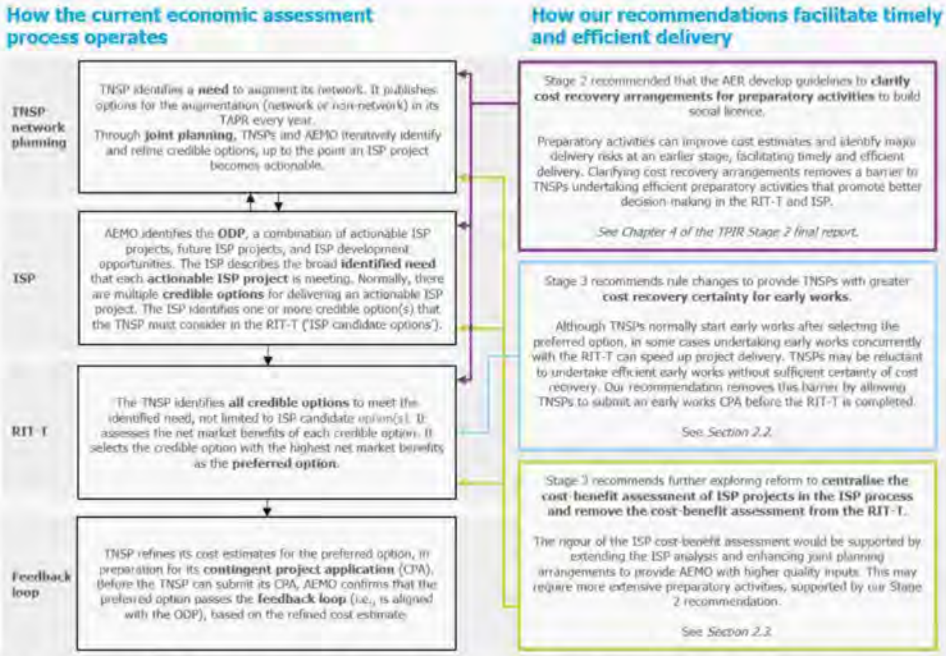
30 Submissions to the Stage 3 draft report: Transgrid, p. 2; CEC, p. 2; Energy Networks Australia (ENA), p. 7; AusNet, p. 10; TasNetworks, p. 2.

31 Submissions to the Stage 3 draft report: AusNet, p. 1; ENA, p. 2; TasNetworks, p. 2; Transgrid, p. 2; Fortescue Future Industries (FFI), p.5; Energy Australia, p. 2.

32 AEMO considers that removing the benefits assessment from the RIT-T should be seen as just one possible option and be considered alongside other potential options in the upcoming AEMC ISP review.

33 See: AEMC, *Transmission planning and investment review - Stage 2, Final report*, 27 October 2022, Chapters 3-5.

Figure 2.1: Our Stage 2 and 3 recommendations facilitate timely and efficient delivery of ISP projects



Note: TAPR refers to the Transmission Annual Planning Reports, prepared by TNSPs as part of their network planning process.. Appendix B provides a more detailed overview of the current economic assessment process in the form of a process map.

The Commission has recommended a progressive approach to developing reform of the economic assessment process. This approach recognises that our recommendations complement and build on each other. The Commission will explore further reform once our Stage 2 and 3 recommendations have been implemented. Figure 2.2 outlines an indicative timeline for our reform of the economic assessment process.

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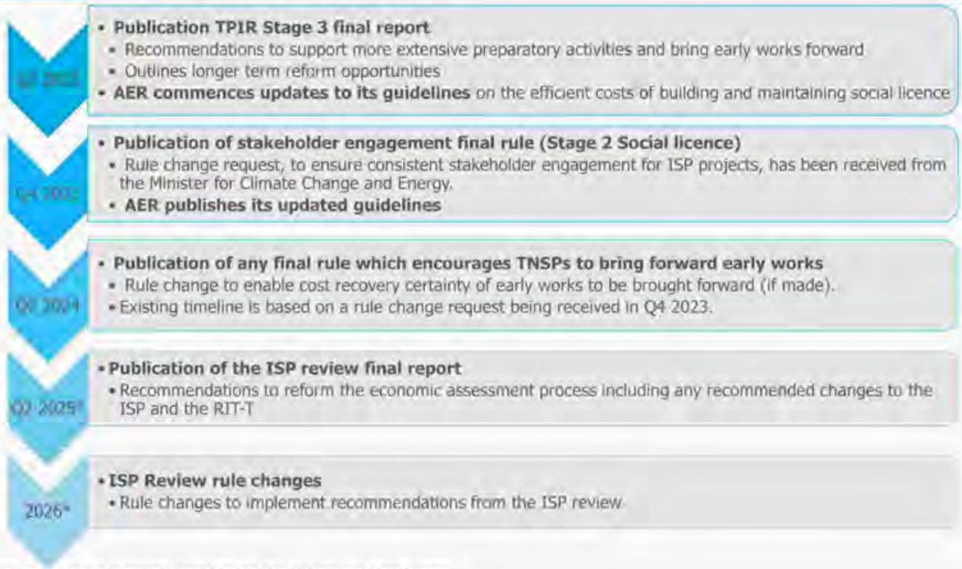
Figure 2.2: Staged implementation of reform



Note: *We are currently considering the ISP review timeframes..

We would hope to complete any rule changes to implement our Stage 2 and 3 recommendations by the end of 2024.[34] This means that these rule changes can apply to the next tranche of actionable ISP projects, ie actionable projects in the 2024 ISP, which TNSP should deliver between 2025-2028.[35] Based on this timeline, any further reform opportunities discussed in section 2.3 could apply to actionable ISP projects in the 2028 ISP.

2.2 Our recommendations support better upfront planning to minimise the risk of future cost increases

The Commission recommends amending the regulatory framework to encourage TNSPs to efficiently undertake more planning activities earlier in the economic assessment process to mitigate the risk of later project cost increases and project delays because of later consideration of these factors.[36] The Commission's recommended rule changes would:

- enable TNSPs to submit an early works CPA without needing to complete a RIT-T and pass the feedback loop. This provides TNSPs with earlier cost recovery certainty and an

34 A rule change proponent would need to submit a rule change request to the AEMC for us to make a rule, which if made, would implement our recommended rule changes from this review.

35 AEMO, *2022 Integrated System Plan*, June 2022, p. 76-77.

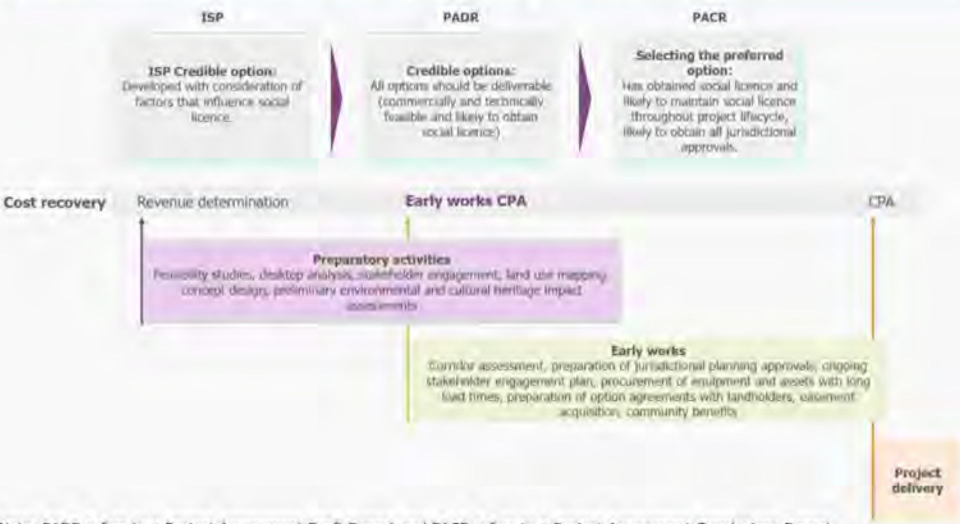
36 More extensive planning activities means undertaking an increased level of preparatory activities to comprehensively investigate the costs and benefits of all credible options in the ISP and RIT-T. It also means undertaking some early works concurrently with the RIT-T to improve the timely delivery of the preferred option that is ultimately chosen.

incentive to undertake early works concurrently with the RIT-T process (see section 2.2.1).

- introduce a NER definition of early works to underpin the AER's assessment of an early works CPA to protect consumers against inefficient expenditure (see section 2.2.2).
- clarify that AEMO can specify, in the ISP, examples of preparatory activities and early works for actionable ISP projects (see section 2.2.3).

Figure 2.3 illustrates how our recommendations on planning activities would operate.

Figure 2.3: An example of more and earlier planning activities



Note: PADR refers to a Project Assessment Draft Report and PACR refers to a Project Assessment Conclusions Report.

2.2.1 A TNSP could submit an early works CPA prior to completing the RIT-T

The Commission's final recommendation is to enable TNSPs to submit an early works CPA, for an actionable ISP project, without having to complete a RIT-T and feedback loop.[37] This encourages TNSPs to commence early works sooner by providing TNSPs with cost recovery certainty, prior to completing the RIT-T.[38]

37 Clauses 5.16A.5(e) and 5.16A.6 (b) of the proposed rule. We recommend defining an "early works CPA" as an application by a TNSP to amend its revenue determination in respect of the costs of early works. This distinguishes an "early works CPA" from a "CPA" which is made with respect to other project costs, not solely early works costs. This distinction is necessary to clarify what costs a TNSP may seek regulatory approval for, without having to comply with the requirement to complete a RIT-T and pass AEMO's feedback loop assessment. See proposed definitions for Chapter 10 of the proposed rule.

38 Cost recovery certainty means that a TNSP can recover early works expenditure, which has been approved in an early works CPA, from consumers through prescribed network charges. This is the case even where the project is ultimately not delivered. See: AER, *Guidance note – Regulation of actionable ISP projects*, March 2021, p. 30.

Under existing arrangements, a TNSP can only receive this cost recovery certainty after completing a RIT-T (which could be an early works RIT-T) and feedback loop as these are preconditions to submit a CPA.[39] This may mean that TNSPs do not carry out early works when it would be most beneficial for the timely and efficient delivery of the ISP project.

Our recommendation gives TNSPs the discretion not to bring early works/cost recovery forward.[40] For example, in cases where a TNSP may determine that it is not beneficial or necessary to bring early works/cost recovery forward.

Our reform could facilitate significant time savings to the overall project delivery timeframes because carrying out early works may reduce supply chain delays and mitigate other project delay risks. The time savings may be greater for ISP staged projects. For these projects, we estimate that our reform may represent a time saving of up to four months to complete the economic assessment process relative to the current arrangements. This is because, under our recommendation, a TNSP would not need to complete a RIT-T and feedback loop in stage 1 – early works before commencing with activities to deliver stage 1.

Our recommendations further clarify that when preparing a RIT-T, feedback loop and CPA, a TNSP must reflect the costs approved in any prior early works CPAs for the specific actionable ISP project to accurately reflect the total cost of the project.[41] For ISP staged projects, costs approved in an early works CPA submitted in stage 1 – early works, where stage 1 is a separate actionable ISP project, does not need to be included in any subsequent RIT-T, feedback loop or CPA.[42] This is because each stage of an actionable ISP staged project forms a distinct actionable ISP project.

2.2.2 We recommend guidance on the assessment of early works costs

We recommend including a definition of early works in the NER to provide guidance on the assessment of an early works CPA.[43] The definition introduces principles for the AER to consider when assessing early works costs. The AER should be satisfied that the costs proposed are for activities that:[44]

- improve the accuracy of cost estimates for that project, or
- facilitate delivery in line with the timeframes specified by the most recent ISP.

The Commission acknowledges the potential risks raised by stakeholders in bringing some early works forward. For example, the AER considers that bringing forward early works could

39 Clause 5.16A.5 (a) & (b).

40 Clause 5.16A.4 (b1) of the proposed rule.

41 Clauses 5.16A.6 (d) & 6A.8.2 (b)(9) of the proposed rule. For the existing treatment of early works costs in the feedback loop see: AER, *Guidance note – Regulation of actionable ISP projects*, March 2021, pp. 29-31. In a future rule change process, we will further consider the appropriate treatment of early works costs in the RIT-T, feedback loop and final CPA.

42 They are in effect sunk. However, where AEMO and the AER consider that it is appropriate to include some of these costs in their respective assessments, TNSPs should include the relevant information requested by AEMO and the AER.

43 This builds on our recommendation in the TPIR Stage 2 final report, which recommended to improve clarity through proposing a description of early works that the AER should reflect in its guidance on ISP projects. AEMC, *Transmission planning and investment review - Stage 2, Final report*, 27 October 2022, p. 40-41.

44 See definition of early works in NER chapter 10 of the proposed rule.

potentially restrict the range of options considered in the RIT-T or weaken the imperative for cost efficiency of these early works activities.[45]

We consider that it may be beneficial to have further guidance on the AER's assessment of an early works CPA, which a TNSP submits prior to completing a RIT-T. This guidance should aim to address risks specifically associated with bringing early works forward and provide clarity on the types of early works that should be brought forward. We consider that a subsequent rule change process should further consider the need for such guidance.

2.2.3 AEMO may specify preparatory activities and early works in the ISP

The Commission recommends clarifying in the NER that AEMO may include in the ISP examples of preparatory activities and early works for an actionable ISP project.[46] Guidance, by way of examples, would support:

- TNSPs in including efficient costs in their revenue proposal or early works CPA, and
- the AER when assessing the efficiency of early works costs.[47]

These examples would not represent an exhaustive list nor obligate TNSPs to complete specific activities.

The Commission recommends further clarifying that a TNSP must carry out preparatory activities for actionable ISP projects, that the TNSP considers beneficial, where these activities have not already commenced.[48] This clarifies that TNSPs must carry out preparatory activities for actionable ISP projects regardless of whether these activities are specified in the ISP or not.

Currently, the ISP may specify whether preparatory activities must be carried out for future ISP projects.[49] These are activities that investigate the costs and benefits of projects that would likely be needed in the future but have not been deemed actionable by the ISP. Our final recommendation extends the existing arrangements for future ISP projects to preparatory activities for actionable ISP projects, ie activities that TNSPs undertake to refine the costs and benefits once a project becomes actionable.[50]

The ISP also currently includes examples of early works that a TNSP may undertake for an ISP staged project. Our recommendation clarifies that the ISP may specify early works for *all* actionable ISP projects.[51]

45 AER, submission to the Stage 3 final report, p. 3.

46 Clause 5.22.6 (a)(6)(vii) of the proposed rule.

47 In discussions with the AER and TNSPs, they considered that including examples of preparatory activities and early works would be helpful.

48 Clause 5.22.6(d) of the proposed rule.

49 Clause 5.22.6 (c) of the NER.

50 Clause 5.22.6 (a)(6)(vii) of the proposed rule.

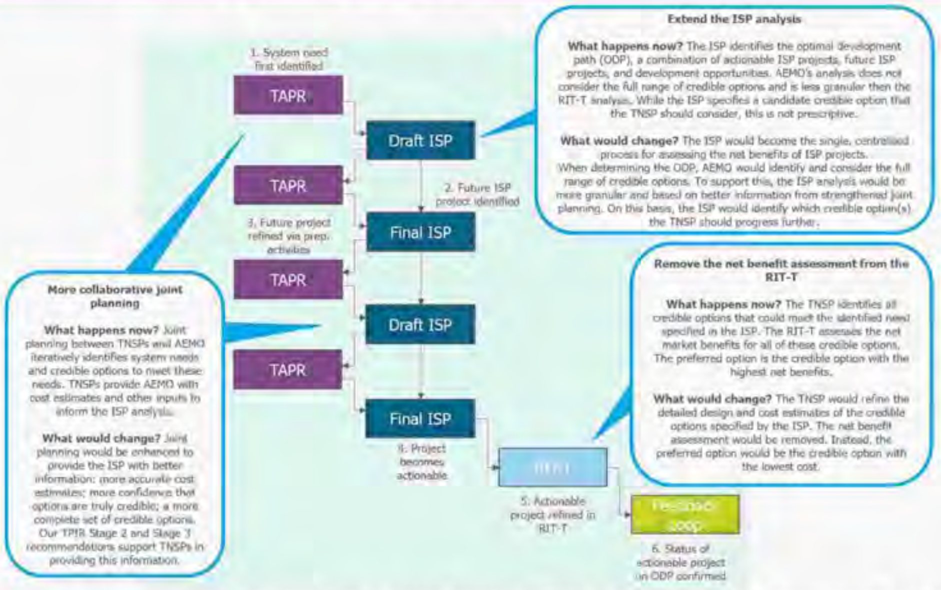
51 Ibid.

2.3 The Commission has identified opportunities to further improve the economic assessment process for ISP projects

The Commission's vision for future improvements to the economic assessment process for ISP projects is to reinforce the ISP as the central process for considering the net benefits of the group of projects that form the ODP. TNSPs would actively contribute to this process through strengthened joint planning arrangements. On this basis, the RIT-T would focus on improving the robustness of cost estimates and select the preferred option based on lowest cost.

Our proposed reforms under TPIR Stage 2 and Stage 3 (enable earlier cost recovery for early works and encourage TNSPs to undertake a broader range of social licence activities and preparatory activities) will improve the quality of the information available to TNSPs and AEMO in planning processes, including in the ISP. These reforms lay the foundation for a more centralised economic assessment process, which in our view would lead to more efficient decision-making in transmission planning and could further improve timely project delivery. Figure 2.4 illustrates how our envisaged reform would change the existing economic assessment process for ISP projects.[52]

Figure 2.4: **How our identified further reform opportunities would change the economic assessment process for ISP projects**



Note: TAPR refers to the Transmission Annual Planning Reports, prepared by TNSPs as part of their network planning process. TNSPs produce other network planning documents, such as for their revenue proposals.

52 A more detailed process map of the current arrangements is set out in Appendix B.

The draft report considered holistic changes to the current arrangements. In particular, strawperson option 2 envisaged centralising the cost-benefit assessment of ISP projects in the ISP by removing the net benefits assessment of credible options from the RIT-T. As outlined in section 2.1.2, many stakeholders supported further consideration of strawperson option 2 to streamline the economic assessment process. Submissions also raised questions about how it would operate in practice and the impact on rigour.

The Commission has proposed significant reform through its TPIR Stage 2 and 3 recommendations. We consider the further improvements we identified are a natural evolution of these reforms as the new processes mature, but represent a material change from the current frameworks for the ISP and RIT-T. We are of the view that further changes should wait until the new arrangements are in place and we can assess their impacts. We also acknowledge the concerns raised by stakeholders that there are further issues to work through. As a result, we recommend further developing future improvements to the economic assessment process in the AEMC's upcoming ISP review. We will use this Review's findings as a starting point, but we remain open to considering alternative reform options, as part of our ISP review.

2.3.1 Reinforcing the central role of the ISP could further support timely and efficient delivery

Compared to the existing process, centralising the cost-benefit assessment in the ISP could produce more efficient decision-making in transmission planning, in the long-term interest of consumers. While the RIT-T analysis explores alternative credible options for a given actionable ISP project, it does not explore interactions with the various credible options that exist for *other* ISP projects. The ISP can better examine these interdependencies and consider the efficiency of all the ISP projects holistically as it is a system-wide planning process.

The Commission also considers that the identified reform opportunities could facilitate more timely delivery of projects, leading to better outcomes for consumers. Removing the need for TNSPs to assess project benefits could improve end-to-end project delivery timeframes for ISP projects. The Commission understands that the RIT-T cost-benefit analysis may require many months to complete, contributing to the time required to complete the RIT-T.[53] The Commission does not expect that this would necessarily translate to a six month time saving in terms of overall project delivery. For example, if the net benefits assessment of ISP projects is centralised in the ISP, the ISP process might need to incorporate a different approach to engaging with stakeholders. This would be important to ensure we retain an adequate level of rigour.

53 RIT-T documents typically note that leading up to the PADR, six to nine months is required to conduct the market modelling for each option and scenario, respond to feedback on the Project Specific Consultation Report (PSCR), and determine the draft preferred option. For example, see: Transgrid, *Reinforcing the New South Wales Southern Shared Network to increase transfer capacity to the state's demand centres*, PSCR, 25 June 2019, p. 6. The Commission understands that updates to the RIT-T benefits modelling may also take place after the PADR is published, to address stakeholder feedback.

2.3.2 The AEMC's ISP review will develop further improvements to the economic assessment process

In identifying further reform opportunities to improve the economic assessment process, the Commission has engaged extensively with the market bodies, network businesses, the jurisdictional reference group, the consumer reference group and other stakeholders. This process has uncovered a range of issues and considerations for further design development. In this section, we discuss our envisaged improvements and the key issues raised by stakeholders. This will form the starting point for further development in our ISP review.

Extending the ISP: centralising the cost-benefit analysis and option identification

We consider there is value in exploring the possibilities to centralise the cost-benefit assessment and credible option identification in the ISP. AEMO could take a more holistic transmission system perspective when performing these tasks, which could lead to more efficient decision-making, and streamlining the cost-benefit assessment to support more timely delivery of ISP projects.

This would mean that we bring forward some of the analysis and consultation that TNSPs currently undertake in the RIT-T to the ISP stage. The ISP would need to narrow down a set of credible options that the TNSP can subsequently compare on the basis of their costs (if we remove the net benefit assessment of credible options from the RIT-T). This would require the set of credible options to have reasonably similar gross market benefits.[54]

The Commission agrees with stakeholders that this will require a material improvement of the ISP inputs, assumptions and modelling as well as strengthened stakeholder consultation.[55] This will be a key design question for further investigation in the ISP review as the specificity of the ISP analysis will have significant impacts on AEMO's resourcing, the cost and complexity of improving the ISP process, and the time required to prepare an ISP. This will be relevant for understanding if a centralised benefits assessment and earlier option identification through the ISP would significantly improve project delivery timeframes.

More collaborative joint planning: improving the quality of the inputs and assumptions that inform the ISP

The Commission sees an opportunity to improve the robustness of the ISP analysis through a more collaborative approach to joint planning between AEMO and TNSPs to provide:

- more accurate cost information, and
- greater confidence that the options considered in the ISP are genuinely credible, based on TNSPs' preparatory activities.

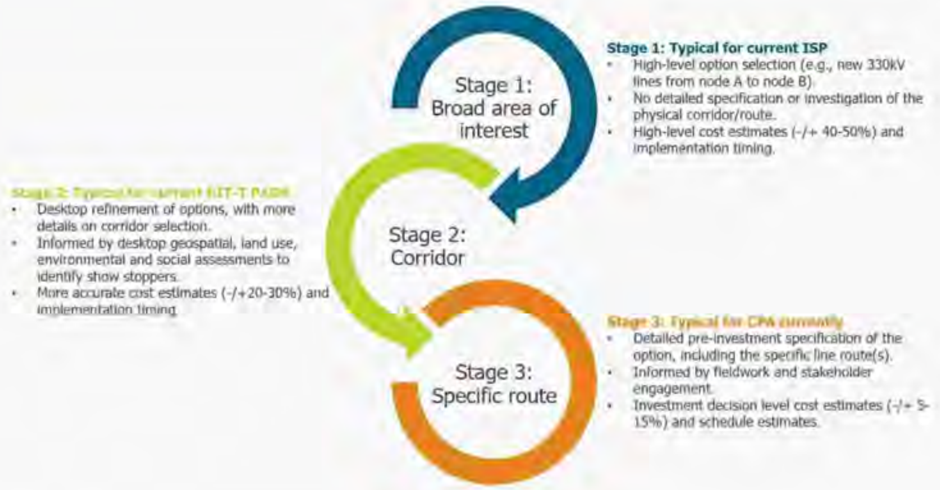
As highlighted in Figure 2.4 above, under the existing arrangements credible options to meet system needs are iteratively identified and developed by TNSPs and AEMO through joint

54 If the RIT-T chooses between credible options on the basis of cost, the selection will not take account of any differences in gross market benefits. If there are large differences in the gross market benefits, there are likely also large differences in costs with the options with higher market benefits often also having higher costs. The options with higher gross market benefits will therefore not likely be selected on the basis of costs. This situation can be avoided if the credible options to deliver an actionable ISP project identified at the ISP stage and further considered in the RIT-T all have similar gross market benefits.

55 AEMO, the Consumer Reference Group and TNSPs raised these concerns in bilateral meetings.

planning. Through this process the level of design detail increases and cost estimates become more accurate (see Figure 2.5).

Figure 2.5: Information quality improves as credible options are refined



Source: AEMC.

Stakeholders have highlighted the importance of effective joint planning in developing the ISP inputs and assumptions throughout this Review.[56]

The Commission considers that increased collaboration between AEMO and TNSPs is key to:

- improving the quality of information that the ISP receives in relation to the range of credible options, their estimated costs, and the level of confidence that they are 'deliverable'
- extending the ISP analysis to provide confidence in its role as the single, centralised process for assessing the costs and benefits of ISP projects. Among other things, this would rely on TNSPs sharing with AEMO the detailed knowledge of their networks and local system impacts that the ISP would need to consider.

The objective of our TPIR Stage 2 and Stage 3 recommendations is to ensure that a sound understanding of land use, environmental, cultural heritage, and other social impacts guides the identification of credible options and subsequently the selection of the preferred option to deliver an actionable ISP project. These reforms will support TNSPs in providing higher quality information to the ISP.

56 For example, AEMO, submission to the consultation paper, p. 7.

The Commission notes feedback from AEMO and TNSPs that it will be important to see how these new arrangements will work in practice, to make a more informed decision on the scope for extending the ISP analysis, and how this will impact the time and cost of the economic assessment process.[57] Improving joint planning will likely be a key area of focus in the ISP review.

Reforming the RIT-T: Removing the net benefits assessment

Based on expanding the ISP analysis to centralise the option identification and cost-benefit assessment, we consider there is value in exploring whether we can remove the net benefits assessment of credible options from the RIT-T. Under such a streamlined process for ISP projects a TNSP would focus on further refining the:

- *Design of the credible option(s) specified in the ISP*, including consideration of alternative routes that fall within the corridor defined for the credible option(s), based on a TNSP's more detailed investigation of land use and other relevant factors.
- *Cost estimates* to select the design with the lowest cost (also having considered social licence cost) as the preferred option.

The Commission considers that – if the ISP analysis is extended in the ways outlined above – there may no longer be a need for the RIT-T net benefits assessment of credible options. This is because the ISP analysis will already have considered which credible options to meet system needs should form part of the ODP, based on information of a similar quality to the RIT-T today. Further, the feedback loop would continue to provide an important safeguard to ensure that the preferred option the RIT-T selects is aligned with the ODP and in the long-term interest of consumers. In this context, there may be limited value in re-assessing the net benefits of credible options in the RIT-T, considering the time and complexity that is involved.[58]

The Commission notes stakeholder feedback that removing the net benefits assessment of credible options from the RIT-T may reduce opportunities to reconsider the cost-benefit analysis of actionable projects in light of new information. However, we consider that our Stage 2 and 3 recommendations will improve the quality of the information available to TNSPs and AEMO in planning processes. This will also apply to the ISP, which would have improved information to draw on and will be more likely to identify all credible options earlier in the process.

If new information arises that has not been included in this increased analysis, the TNSP would determine if it changes the cost or deliverability of specific options during the RIT-T. If it changes the cost of specific options, this should be incorporated into the TNSP's cost analysis. This would include increased costs to obtain and maintain social licence associated with specific options. If the new information impacts the timely delivery of specific options, so they would no longer be credible, that option should be removed from the TNSP's analysis.

57 Feedback was provided by AEMO and TNSPs in workshops and working groups held between the draft and final report.

58 As these reform opportunities are further developed, it may be appropriate to consider whether any aspects of the feedback loop analysis should be reconsidered. For example, the Commission understands that currently the feedback loop does not specifically check that the preferred option has a positive net market benefit (even though this is highly likely to be the case if a project passes the feedback loop).

The Commission considers if the new information means no options remain credible then AEMO should determine the appropriate course of action considering the impact on other projects in the ISP.

Further, the Commission notes that if an ISP project is actionable, this means that AEMO has concluded that it needs to be delivered in the very near future. In this context, the Commission considers that consumers are best served by a regulatory framework that prioritises timely project delivery rather than ongoing reassessment of the benefits case. To the extent that there is a strong case for the net benefits of an actionable project to be re-assessed, it may also be that AEMO is better placed to undertake this (rather than the TNSP in the RIT-T), given the potential for flow on impacts to other ISP projects.

We also acknowledge stakeholder feedback that the RIT-T currently provides an opportunity for interested stakeholders to engage with TNSPs on the benefits modelling and to understand how the TNSP has selected the preferred option.[59] If we remove the net benefits assessment of credible options from the RIT-T we will likely need to reconsider opportunities for stakeholders to engage on benefits within the overall economic assessment process.

59 Feedback from the Consumer Reference Group and TNSPs in workshops and meetings.

3 ALIGNING THE REGULATORY FRAMEWORK FOR TRANSMISSION PLANNING WITH THE TRANSITION TO NET ZERO EMISSIONS

BOX 4: KEY RECOMMENDATION

The Commission recommends a rule change process to harmonise the NER with the imminent inclusion of emissions reduction in the national energy objectives.

The Commission recommends that rule change process should focus on key areas for harmonisation across the national regulatory framework, including changes to ensure that the benefits of emission reductions are considered in transmission planning.

3.1 The Commission recommends a rule change to harmonise the rules with the revised national energy objectives

3.1.1 Our recommendation will promote timely and efficient transmission investment to achieve net zero

The Commission recommends a rule change process to harmonise the NER with the revised energy objectives, once emissions reduction is included in the objectives. This rule change process would include considering changes to the transmission planning framework to reflect the emissions reduction objective.

The Commission's recommendation supports emissions reduction

Stakeholders have expressed significant interest in the treatment of emissions reduction in transmission planning. Consequently, a key focus of the Commission in the Stage 3 draft report was to provide transparency and clarity on how emissions reduction is currently factored into transmission planning, and how this drives investment decisions that will help achieve net zero.[60]

The Commission also committed to continue to monitor developments with respect to climate legislation to ensure it is appropriately factored into transmission planning in the future. The Commonwealth's consultation on incorporating emissions reduction into the national energy objectives (discussed in greater detail below) has led to our recommendation for a harmonising rule change. A harmonising rule change would help to ensure that transmission investment decisions transparently balance emissions, price, quality, safety, reliability and security, supporting the energy transition to net zero.

60 See Chapter 3 of the TPIR Stage 3 draft report. Emissions reduction is currently captured in the transmission planning process through AEMO's scenario planning, with scenarios in the ISP explicitly capping the level of emissions in the NEM to be consistent with public policy settings. This scenario planning approach flows through to the application of the RIT-T.

The Commission's recommendation supports transparency and clear and predictable rules

The Commission considers that a consultative rule change process will help to ensure that incorporating the revised national electricity objective into the NER occurs transparently and leads to clear and predictable rules. Emissions reduction will be a pertinent consideration in many areas of the NER – such as the economic assessment and revenue determination processes – and a consistent approach to considering emissions reduction will be important to reduce administrative burden.

3.1.2 Our recommendation has been shaped by the evolving policy landscape and stakeholder interests

In late 2022, the Commonwealth Government released a consultation draft of a Bill that includes in the national energy objectives the achievement of targets for reducing greenhouse gas emissions to which the Commonwealth, a State or a Territory has made a public commitment.[61]

The proposed change would include emissions reduction in the economic efficiency framework of the national energy objectives. A consequence of this change would be the requirement for regulatory decisions to balance emissions reduction with the existing limbs of the national energy objectives – price, quality, safety, reliability and security. The market bodies would be required to consider emissions reduction alongside other limbs of the national energy objectives, but retain the discretion to balance these components when making decisions (as is currently the case).[62]

At the 24 February 2023 meeting of the Energy and Climate Change Ministerial Council, ministers committed to agree the final Bill by July 2023.[63]

The Commonwealth Government's consultation on incorporating an emissions objective into the national energy objectives commenced between our Stage 3 draft and final reports, with stakeholders expressing views on the impact of the Commonwealth's proposed change in submissions to our draft report.[64] Stakeholders broadly supported incorporating emissions reduction into the regulatory framework for transmission planning in their submissions to our draft report.[65] For instance, ENA suggested that the Commission outline how the transmission planning framework may need to evolve with respect to the treatment of emissions reduction[66] and AEMO recommended emissions reduction be added as a class of market benefit.[67]

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61 Commonwealth Government, *National Energy Laws Amendment (Emissions Reduction Objectives) Bill 2023*, Consultation draft, 20 December 2022, section 4. The section then provides further detail on the types of targets that would be included.

62 In relation to AEMC decisions, see NEL section 88(2): "the AEMC may give such weight to any aspect of the national electricity objective as it considers appropriate in all the circumstances...".

63 Energy and Climate Change Ministerial Council, meeting communique, 24 February 2023. After being agreed by energy ministers, the Bill would then need to pass through South Australian Parliament.

64 Commonwealth Government, *Incorporating an emissions reduction objective into the national energy objectives*, Consultation paper, 20 December 2022.

65 Submissions to draft report: AEMO, p. 13; CEC, p. 4; CEIG, pp. 9-10; ENA, p. 3; Transgrid, p. 3.

66 ENA, Submission to draft report, p. 3.

67 AEMO, Submission to draft report, p. 13.

The Commission agrees with stakeholders that amendments to the transmission planning framework may be required to reflect the revised energy objectives. We recommend a rule change process to consider harmonising rule changes, to allow for appropriate stakeholder consultation.

3.1.3 Our recommendation supports the policy intent of including emissions reduction in the energy objectives

The overarching aim of reforming the national energy objectives is to incorporate Australia's target of net zero emissions by 2050 into the energy regulatory framework.[68] The national energy objectives are foundational for the work of the energy market bodies. Under the National Electricity Law (NEL):

- The AEMC may only make a rule if it is satisfied that the rule will or is likely to contribute to achieving the national electricity objective.[69]
- The AER must exercise its economic regulatory functions or powers in a manner that will or is likely to contribute to achieving the national electricity objective.[70]
- AEMO must have regard to the national electricity objective in carrying out its functions.[71]

Including emissions in the energy objectives lays the foundation for the decarbonisation of the energy market, with transmission being a key enabler of this transition.

However, there are a number of instances throughout the Rules where limbs of the energy objectives, but not the energy objectives themselves, are referenced. This means that any changes to the energy objectives would not automatically flow through to these provisions. As a result emissions reduction would not automatically be considered alongside the other limbs in these instances without a harmonising rule change.

Without rule changes the policy intent of the change to the objectives might not take full effect, leading to regulatory uncertainty for stakeholders and increased administrative burden for the AER (in its economic regulatory functions) and AEMO (in its development of the ISP). Amendments to the rules will lead to consequential changes being required to guidelines and processes, including those relating to transmission planning and investment, improving certainty and consistency across the market.

Our recommendation of a rule change to harmonise the NER with the revised energy objectives would support the policy intent of including emissions reduction in the energy objectives.

3.2 How our recommendation would operate

The Commission recommends a harmonising rule change once the national energy objectives have been revised to include the emissions reduction objective. We have considered

68 Commonwealth Government, *Incorporating an emissions reduction objective into the national energy objectives*, Consultation paper, 20 December 2022, p. 1.

69 NEL section 88.

70 NEL section 16(1)(a).

71 NEL section 49(3).

transmission planning provisions in the NER that may be candidates for harmonisation. Proper consideration of these issues will occur with public consultation during a formal rule change process after the *National Energy Laws Amendment (Emissions Reduction Objectives) Bill 2023* is agreed. Prompt changes to the Rules will be needed to facilitate timely guideline and process updates, for example in relation to AEMO's 2026 ISP (see Figure 3.1, below).

The Commission has identified three illustrative areas for potential reform in transmission planning provisions of the NER to harmonise with the proposed new national electricity objective as a starting point:

- Including emissions reductions as a class of market benefit to be considered in the ISP, RIT-T and regulatory investment test for distribution (RIT-D)
- Clarifying the range of policies AEMO takes into account in the ISP to ensure alignment with the new national electricity objective
- Changing references to the 'long term interests of consumers' in ISP provisions to references to the national electricity objective.

The following sections discuss these potential reform areas in greater detail (noting that different or additional rule changes may also be considered during this process or in a subsequent rule change process, such as amending the capital expenditure and operating expenditure objectives).[72]

3.2.1 Including emissions reductions as a class of market benefit

The first illustrative area for potential reform is the classes of market benefit examined as part of the economic assessment process for network investments. A harmonising rule change request should consider whether including emissions reductions as a class of market benefit would contribute to achieving the revised NEO. Including emissions reductions as a class of market benefits would ensure that emissions reductions are explicitly balanced against the other limbs of the NEO in the economic assessment processes.

AEMO must consider specified classes of market benefits that could be delivered by the projects in the ISP that together address power system needs when developing the ISP.[73] Each of these market benefits have a clear link to an existing limb of the energy objectives, ie they each relate to price, quality, safety, reliability or security.[74] There is also the potential to include "other classes of market benefit" agreed with the AER or specified by the AER in its *Cost Benefit Analysis Guidelines*.[75] Identical classes of market benefit are relevant for both

72 While the focus of this Review is on transmission planning, it may be appropriate for a harmonising rule change to have a broader remit, eg, considering similar provisions in the NER relating to distribution planning, and in the National Gas Rules relating to gas networks, for clarity and consistency across the network planning frameworks.

73 Clause 5.22.10(c)(1) of the NER.

74 The classes of market benefits are: changes in fuel consumption arising through different patterns of generation dispatch, changes in voluntary load curtailment, changes in voluntary load curtailment, changes in involuntary load shedding, changes in costs for parties due to differences in the timing of new plant, differences in capital costs and differences in operating and maintenance costs, differences in the timing of expenditure, changes in network losses, changes in ancillary services costs, competition benefits and any additional option value.

75 Clause 5.22.10(c)(1)(x) of the NER.

the RIT-T and RIT-D,[76] and if changes are made to the ISP provisions the same changes could be considered for the RIT-T and RIT-D provisions.

In principle, it would be desirable to have a consistent approach to accounting for emissions reductions across the ISP, RIT-T and other economic assessment processes for network investments. Adding emissions reductions as a standard class of market benefit via a rule change may help drive a consistent approach to valuing emissions reduction across network service providers and projects. The AER would alternatively have to consider these issues on a case-by-case basis under the "other classes of market benefit" provision in every RIT-T or RIT-D process (if requested to do so by the relevant RIT proponents), which would be administratively burdensome for the AER, AEMO and individual RIT proponents. Further, relying on the "other classes" provision would not ensure that emissions are considered in every case, and may result in emissions impacts being considered in some projects but not others.

Including emission reductions as a market benefit could also help to clarify that references in other transmission planning provisions in the NER to the "net economic benefit to all those who produce, consume or transport electricity in the market" includes the benefits of emission reductions.[77]

The Commission notes that amending the classes of market benefits would likely require the AER to update its guidelines, to provide guidance on how emission reductions should be taken into account. These guidelines, once updated, would then affect the development of the ISP and the application of the RIT-T (and RIT-D), particularly in relation to how emissions reduction benefits are valued in the analysis.

For instance, clause 5.16.2(c)(6) of the NER requires the AER's *RIT-T Application Guidelines* to provide guidance and worked examples as to the acceptable methodologies for valuing market benefits. While these guidelines apply to non-actionable ISP projects, the AER's *Cost benefit analysis guidelines* currently reference the guidance provided in the *RIT-T Application Guidelines* in valuing each class of market benefit for actionable ISP projects.[78]

Figure 3.1 summarises these interactions and outlines indicative timing for the potential rule change[79] and consequential guideline changes in order to feed into AEMO's 2026 ISP and network investment processes.

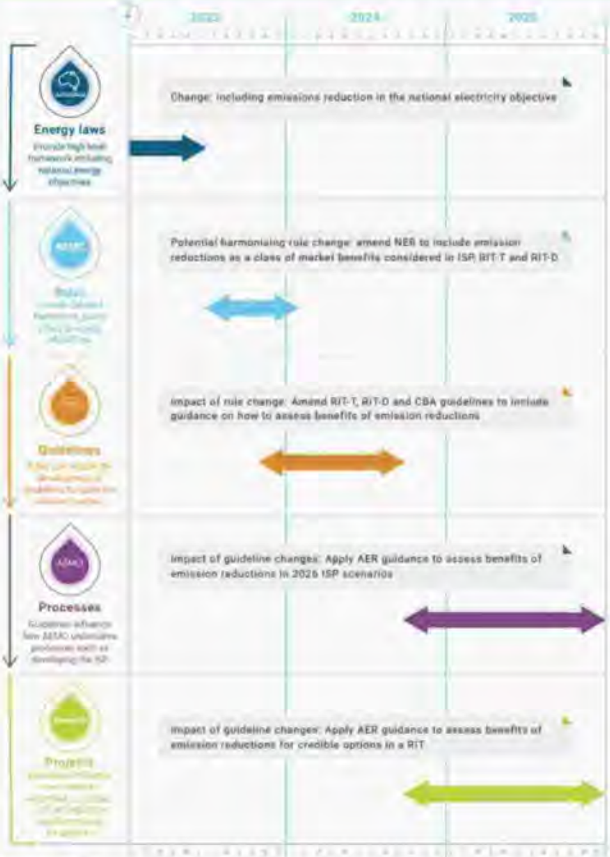
76 See clauses 5.15A.2(b) and 5.17.1(c) of the NER.

77 This phrase is used in several transmission planning provisions, for example cl 5.12.1 on the transmission annual planning review, cl 5.15A.1 on the purpose of the RIT-T, and cl 5.15A.2 on the principles for RIT-T projects that are not actionable ISP projects, as well as in similar provisions for distribution planning. If including emissions as a market benefit is not considered to be sufficient to clarify that this phrase includes emissions benefits, a rule change could consider directly amending this phrase.

78 AER, *Cost benefit analysis guidelines*, August 2020, p. 27.

79 While for simplicity Figure 3.1 refers to an AEMC rule-making process, as an alternative process the South Australian energy minister could make this rule change, if the amendments to the energy laws include a rule-making power for this subject. A recent example of a Minister-made rule amending the NER is the *National Electricity Amendment (Regulatory sandboxing) Rule 2022*, relying on NEL section 90DA.

Figure 3.1: Interactions between energy laws, rules, guidelines and processes in the example of adding a class of market benefit



Source: AEMC.
Note: AEMO and network processes will extend beyond 2025.

3.2.2 Aligning public policies considered in the ISP with the national energy objectives

The second illustrative area for potential reform is the scope of public policies that AEMO considers in the development of the ISP, through the 'public policy clause' of the NER.[80] The Commission recommends the harmonising rule change process consider whether to harmonise the scope of these policies with the scope of emissions policies that are relevant under the revised NEO.

80 Clause 5.22.3(b) of the NER.

The Stage 3 draft report highlighted that the public policy clause permits AEMO to consider a current environmental or energy policy of a participating jurisdiction when determining power system needs (the needs which the ISP is intended to achieve), provided that:

- the policy has been sufficiently developed to enable AEMO to identify the impacts of it on the power system, and
- at least one of the following is satisfied:
  - a commitment has been made in an international agreement to implement that policy
  - that policy has been enacted in legislation
  - there is a regulatory obligation in relation to that policy
  - there is material funding allocated to that policy in a budget of the participating jurisdiction, or
  - the Ministerial Council of Energy (MCE) has advised AEMO to incorporate the policy.

The emissions reduction targets in the December 2022 draft of the energy objectives include targets stated publicly as a matter of policy by the Commonwealth, a State or a Territory. There are no requirements relating to enactment or funding.[81] This is a broader scope of policies than the NER public policy clause currently permits AEMO to consider for the purposes of determining power system needs.

A rule change could consider whether the breadth of policies AEMO takes into account in determining power system needs should align with those contemplated in the final national energy objectives, to give full effect to the new objectives, noting AEMO's view that the current wording of that clause provides an appropriate threshold for sufficiently developed policies to be included in the ISP. The Commission also notes that jurisdictions sought greater clarity on how each of their emissions reduction ambitions are included in transmission planning under the current NER public policy clauses in discussions in the jurisdictional reference group.

3.2.3 Updating references to the long-term interests of consumers in ISP provisions

The third illustrative area for potential reform is references to the long term interests of consumers in two ISP provisions in the Rules. Updating references to the long term interests of consumers could improve clarity and transparency and should be considered in a harmonising rule change process.

The national electricity objective involves the long-term interests of consumers of electricity *with respect to* several specified matters (including price, quality, safety, reliability and security of supply of electricity). This will be extended to include emissions reductions as discussed above. There are two ISP provisions in the NER that use the phrase 'long term interests of consumers' (without any specified matters), rather than referring to the national electricity objective.

Clause 5.22.2 of the NER states that the purpose of the ISP is to:

81 Commonwealth Government, *National Energy Laws Amendment (Emissions Reduction Objectives) Bill 2023*, Consultation draft, 20 December 2022, section 4.

> *...establish a whole of system plan for the efficient development of the power system that achieves power system needs for a planning horizon of at least 20 years for the* ***long term interests of the consumers of electricity*** *[emphasis added]*

Clause 5.22.7(d)(2) requires the ISP consumer panel, in preparing the consumer panel report, to have regard to the long term interests of consumers.

Updates to the national electricity objective will not necessarily flow through to these two ISP clauses because these clauses do not explicitly refer to the objective. Updating these provisions in the Rules to explicitly refer to the national electricity objective would clarify that the long-term interests of consumers involves balancing all limbs of the national electricity objective, including emissions reductions.

4 MANAGING RISK AND UNCERTAINTY THROUGH TARGETED EX POST REVIEWS

BOX 5: KEY RECOMMENDATIONS

The Commission's final recommendation is to amend the NER to facilitate a targeted ex post review mechanism that the AER can apply to capex incurred on completed ISP projects. The new mechanism would be separate to the existing ex post review mechanism, which would be limited to all capex incurred on non-ISP projects over the five year ex post review period. Proposed rule drafting is published with this report.

The Commission's recommendation to review ISP capex separately from non-ISP capex will:

- address the potential additional risk associated with ISP projects, where the expenditure is significant and the risk of overspend is greater, and which are very different from the types of projects that have been delivered in the past, and
- improve the effectiveness of the AER in conducting its role in ensuring that ISP projects are delivered efficiently.

4.1 The Commission recommends introducing a targeted ex post review for ISP projects

4.1.1 Our recommendation promotes efficient outcomes by clarifying the ex post review arrangements

We recommend introducing a targeted ex post review mechanism for completed ISP projects. Our recommended rule explicitly separates ex post reviews for ISP project capex and non ISP capex.[82] Only the overspend of past capex considered in the respective ex post review (that is, specific ISP project capex or non-ISP capex) would be open for potential exclusion from the regulated asset base (RAB).

The Commission's recommendation reduces risk and uncertainty, promoting economic efficiency

TNSPs have expressed concern that under the current arrangements there is uncertainty around the treatment of non-ISP capex where a capex overspend has occurred on a specific ISP project.[83] Specifically, TNSPs are uncertain whether non-ISP capex could be subject to exclusion from the RAB if a TNSP has overspent on ISP project capex only. This uncertainty in the regulatory framework could result in inefficient outcomes for consumers, if it creates material risks that are outside a TNSP's control. Our recommendation would address this issue identified with the current ex post review mechanism. Introducing a targeted ex post

82 I See attached indicative rule drafting for further detail on the recommended rule.

83 Submission to the Stage 3 draft report: ENA p. 12; Transgrid, p. 8.

review for ISP projects clarifies the treatment of both ISP project capex and non-ISP project capex in the context of an ex post review and in doing so would promote efficient delivery of major transmission projects. This would then help to ensure consumers pay the efficient costs for major transmission investment in the NEM.

The Commission's recommendation supports efficient implementation of the new arrangements

Our recommendation is to introduce the concept of an ISP overspending requirement in the Rules which is specific to ISP projects and covers the entire period in which a TNSP incurs capex to deliver an ISP project. The AER would have access to complete information on matters such as project specific capex drivers, management practices and processes when undertaking a targeted ex post review of ISP capex incurred over the delivery period. This will enable the AER to rigorously consider and assess the overall prudency and efficiency of capex incurred on a specific ISP project where there has been an overspend. This should reduce the administrative burden for both the AER and TNSPs by reducing the time and effort required to gather and assess information and evidence that is required to determine the materiality and efficiency of the overspend on projects that cross multiple review periods. It should also support the AER in undertaking its functions in a way that reduces costs to consumers.

4.1.2 Stakeholder feedback has informed the case for change and has shaped this recommendation

The Commission considers there is a case to create an ISP project specific approach to better accommodate ISP project capex, and increase certainty relating to the overall approach to the ex post review of TNSP capex more generally.

Both ENA and Transgrid raised the concept of a targeted ex post review as a way to address concerns related to uncertainty around the treatment of non-ISP capex where a capex overspend on an ISP project has occurred.[84] Other stakeholders also supported clarifying the ability of the AER to conduct a project-specific ex-post review to examine TNSPs' expenditure where the TNSP's capital expenditure allowance for those projects is exceeded.[85]

The AER has also uncovered an issue with respect to the current ex post review window which limits the review of past capex to a five-year review period, even where a TNSP may incur capex on an ISP project over a longer period.

These two concerns stem from several sources:

1. **Specification of the current "overspending requirement" in the Rules:** The current overspending requirement applies to a TNSP's total capex on all projects within its

84 In their submissions to both the consultation paper and Stage 3 draft report, the ENA and Transgrid suggested introducing a targeted ex post review process that enables the AER to examine specific ISP projects as a means of improving the accuracy of TNSP capital expenditure forecasts. See: Submissions to the consultation paper: ENA, pp. 9-11; Transgrid, p. 5; and submissions to the Stage 3 draft report: ENA, pp. 2, 12, Transgrid, p. 8.

85 Submissions to the Stage 3 Draft Report: CEIG, pp. 3,12; AER, p. 8; Marinus Link, pp. 5-6; PIAC, p. 10; TasNetworks, p. 3.

portfolio across the review period.[86] This requirement creates uncertainty around the AER's ability to target an ex post review to capex associated with a single ISP project.[87]

2. **Inclusion of high level guidance on the approach to the ex post review of ISP capex in an AER guidance note:** The AER is required to include in its *Capital Expenditure Incentive Guidelines* an explanation of the manner in which it will make a determination where the overspending requirement is met.[88] However, the AER's proposed approach to an ex post review of ISP projects is currently included in the AER's guidance note on the *Regulation of actionable ISP projects*. This could lead to uncertainty as the guidance on the application of the ex post review arrangements to ISP capex is not required by the Rules, and the AER does not need to consult with stakeholders when amending it.
3. **Definition of "review period" in the Rules:** When considering how a TNSP's actual capex compares to its forecast allowance, the AER is required to look back across a five-year review period.[89] Challenges can arise for the AER where it identifies an overspend that can be attributed to capex incurred on an ISP project being delivered across a period longer than the five-year review period. It can be difficult for the AER to assess the materiality and efficiency of that overspend without complete information on the ISP project, including the project's specific capex drivers and management practices and processes.

The Commission considers that these issues could impact the efficient delivery of ISP projects to the detriment of consumers for the following reasons:

- The size and scale of ISP projects exacerbate the risk that an ex post review may be triggered. The lack of clarity around whether an overspend on an ISP project could subject all capex incurred by a TNSP – including non-ISP capex – to a detailed ex post review by the AER creates new risks for TNSPs.
- Limitations on the AER's ability to look in detail at capex overspends on ISP projects extending beyond the five-year review period could reduce the effectiveness of the ex post review process and result in increased costs to consumers.

4.2 How our recommendations would operate and be implemented

The Commission recommends rule changes to facilitate a targeted ex post review mechanism for completed ISP projects.[90] The new mechanism for the ex-post review of ISP project capex would:

- separate the review of ISP project capex from non-ISP capex

86 The overspending requirement is specified in clause S6A.2.2A(c) of the NER.

87 In the AER's *Regulation of actionable ISP projects* guidance note, the AER states that, although the ex post review process applies to a TNSP's total capex allowance for the previous regulatory control period, the AER has the flexibility to focus on individual projects within that allowance (such as actionable ISP projects). See: AER, *Regulation of actionable ISP projects* Guidance Note, March 2021, p. 33.

88 Rule 6A.5A(b)(2) of the NER.

89 Under clause S6A.2.2A(a1) of the NER.

90 The Commission is not proposing changes to the existing margin requirement or capitalisation requirement in the ex post review clause. These can already be applied on a project-specific basis.

- change the period over which the ISP project capex is reviewed.

Table 4.1 below provides a high level comparison of the key features of the current ex post review arrangements and the Commission's recommendation.

Table 4.1: Comparison of key features of the ex post mechanism under the current and proposed Rules

FEATURE	CURRENT APPROACH	PROPOSED APPROACH
Trigger for ex post review (section 4.2.1)	Ex post review triggered where total capex incurred over the five-year review period exceeds total forecast capex for that period (the current overspend requirement in the Rules).[1]	Targeted ex post review of ISP project capex triggered where capex incurred on an *ISP project* completed in the review period exceeds forecast capex for that project.[2]
		Ex post review of non-ISP capex triggered where capex incurred on *non-ISP projects* exceeds forecast capex for all non-ISP projects during the review period.[3]
Approach to exclusions from the RAB (section 4.2.1)	The amount open for exclusion from the RAB is limited to the level of overspend above the total capex allowance for the five-year review period that the AER determines does not meet the capex criteria.[4]	For an *ISP project ex post review*, the amount of capex open for exclusion from the RAB would be limited to the level of overspend on that project above the forecast capex allowance for that project that the AER determines does not meet the capex criteria.[5]
		For a *non-ISP ex post review*, the amount of capex open to exclusion from the RAB would be limited to the level of overspend above the capex allowance for non-ISP projects for the five-year review period that the AER determines does not meet the capex criteria.[6]
Review period (section 4.2.2)	The 'review period' (the relevant period of TNSP spending which the AER considers in an ex-post assessment) is defined as:	For an *ISP project ex post review*, the new term 'ISP project review period' is the regulatory years, of one or more regulatory control periods, in which capex was incurred in relation to a reviewable ISP project. Therefore, it is all the years in which capex is incurred for that ISP project, including where that capex is incurred over multiple regulatory control periods and over multiple 'review periods' (as currently specified in the Rules). The definition of 'review period' applies for

FEATURE	CURRENT APPROACH	PROPOSED APPROACH
	• the first three years of the regulatory control period just ending, and • the last two years of the preceding regulatory control period.[7]	the purposes of determining when the project is completed and therefore when the ex post review commences. Whereas the definition of 'ISP project review period' applies for the purposes of determining the years in which capex was incurred for an ISP project. *A reviewable ISP project* is an ISP project that has been completed in the five year period since the previous ex post review window. For a *non-ISP ex post review*, the review period would be the same five-year period as currently specified in the Rules.
Timing of an ex post review (section 4.2.3)	The AER undertakes an ex post review at the time it prepares a draft decision on a TNSP's regulatory determination for the next regulatory control period.	No change to current approach.
Information in AER guidelines (section 4.2.4)	The process for ex post review is set out in the AER's *Capital Expenditure Incentive Guidelines*. The AER's guidance note on the *Regulation of actionable ISP projects* provides additional guidance on the application of ex post review to ISP capex.	The AER would need to update its *Capital Expenditure Incentives Guidelines* to comply with the new process for a targeted ex post review for ISP capex.[8] Transitional rules would specify that the AER is to make these updates by the date the substantive changes to the Rules take effect.[9]

Note: [1] Current NER clause S6A.2.2A(c); [2] Proposed new NER clause S6A.2.2A(c1); [3] Proposed amendment to NER clause S6A.2.2(c); [4] Current NER clause S6A.2.2A(f), The capex criteria are set out in clause 6A.6.7(c)(1)-(3) and require the AER to be satisfied that the total of the forecast capex for the regulatory control period reasonably reflects the following: the efficient costs of achieving the capital expenditure objectives, the costs that a prudent operator would require to achieve the capital expenditure objectives, and a realistic expectation of the demand forecast and cost inputs required to achieve the capital expenditure objectives; [5] Proposed amendment to NER clause S6A.2.2A(f), [6] Proposed amendment to NER clause S6A.2.2A(f); [7] Current NER clause S6A.2.2A(a1); [8] The Rules currently require the AER to make and publish the *Capital Expenditure Incentive Guidelines*. The manner in which the AER proposes to make a determination regarding reductions for inefficient past capex if the overspending requirement is satisfied must be set out in these guidelines. The AER may update its guidelines from time to time, provided it complies with the transmission consultation procedures. See current NER rule 6A.5A(b); [9] Proposed new transitional provision in NER chapter 11.

Figure 4.2 at the end of this Chapter illustrates how the recommended targeted ex post review mechanism would operate in practice, compared to the current ex post review mechanism.

4.2.1 Trigger for ex post review of ISP projects and approach to exclusions from the RAB

The Commission recommends that a targeted ex post review of ISP project capex would occur where actual capex incurred on a completed ISP project exceeds the forecast capex allowance for that project. Where a targeted ex post review is triggered, only the capex incurred on the completed ISP project being reviewed would be open to potential exclusion from the RAB.

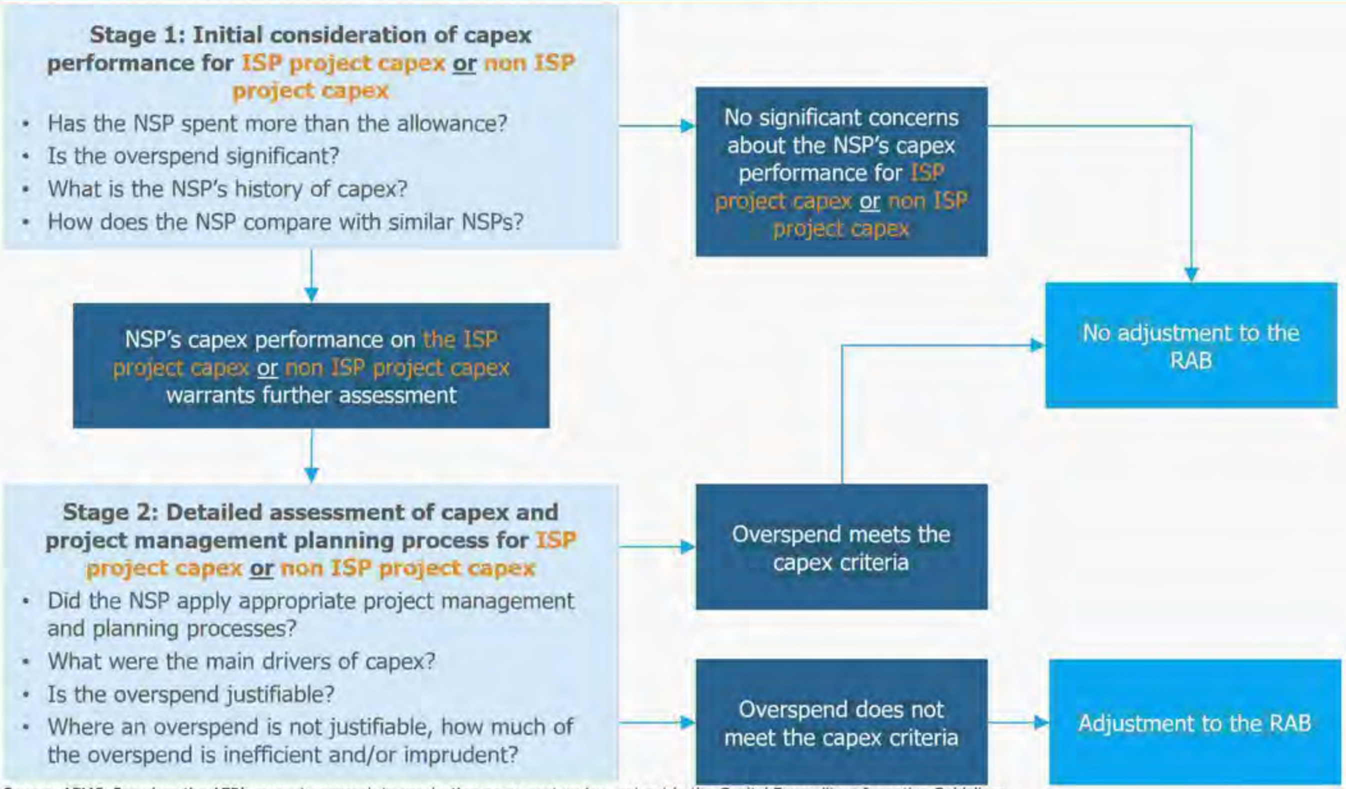
For the avoidance of doubt, non-ISP capex would continue to be subject to ex post review and open to potential exclusion from the RAB where the existing overspending requirement in the Rules was met, ie the overspend was related to non-ISP projects.

The recommended changes to the ex post review trigger, and scope of potential exclusions from the RAB to better accommodate ISP projects, would directly address TNSP concerns regarding risk and uncertainty in the current ex post review arrangements.

The final recommendation would not change the AER's current approach to conducting an ex post review, other than to require that the process be applied separately to capex incurred on competed ISP projects, and non-ISP capex incurred during the review period.[91] It is expected that the AER would continue to apply its current approach to conducting an ex post review when considering ISP project capex. That is, there would be no difference in the approach to conducting an ex post review of ISP project capex compared to the approach to conducting an ex post review of non ISP project capex. The approach is illustrated in Figure 4.1.

91 We note that the AER has discretion as to how it determines potential reductions in the RAB for inefficient past expenditure. While the Commission's recommendations have been developed in the context of the AER's current process for undertaking an ex post review, the AER may choose to make changes to this process if necessary or appropriate, if the recommended rule is made. The AER would, however, be required to consult with industry when making any changes to the current process which is set out in the *Capital Expenditure Incentive Guidelines*.

Figure 4.1: **Final recommendations for the ex post review of ISP and non ISP capex**



Source: AEMC. Based on the AER's current approach to conducting an ex post review, set out in the *Capital Expenditure Incentive Guidelines*.

An overview of the various adjustments to a TNSP's RAB following a targeted ex post review of ISP capex is provided in Box 6 below.

BOX 6: APPROACH TO RAB ADJUSTMENTS FOLLOWING A TARGETED REVIEW OF ISP CAPEX

- The AER may decide that part or all of an overspend is inefficient or imprudent and should be excluded from the relevant TNSP's RAB following a targeted ex post review of capex incurred on a completed ISP project.
- Inefficient or imprudent capex overspends incurred in years 1, 2 and 3 of the current regulatory control period would not be rolled into the RAB at the end of the period in practice, and consumers would not fund any of this capex.
- However, the AER would need to make a net present value (NPV) adjustment to the RAB where an inefficient or imprudent capex overspend has been incurred in a previous regulatory control period. This is because the overspend incurred in a previous regulatory control period would already have been rolled into the RAB at the end of that period. Consumers will already have funded at least part of this overspend through higher prices.
- The AER would make an NPV adjustment to ensure the TNSP does not retain any revenue through the RAB from capex that does not meet the capex criteria to ensure consumers are compensated for the delay in conducting the ex post review of overspends incurred in a previous regulatory control period.
- Where the AER excludes capex from the RAB after an ex post review, it may also need to make a corresponding adjustment to the capital expenditure sharing scheme (CESS) so that TNSPs do not incur a penalty of more than 100 per cent of an overspend. This may need to occur where the AER undertakes an ex post review several years after it has calculated CESS rewards and penalties.

4.2.2 Review period: All capex for a completed ISP project would be subject to review

The Commission recommends introducing the concept of a 'reviewable ISP project'

The Commission recommends introducing the concept of a '**reviewable ISP project**' under the Rules to enable the AER to consider all capex incurred on an ISP project once it is complete (and where an overspend has been incurred). This would be defined as follows:

- an actionable ISP project that has been commissioned and energised within a review period,[92] or

92 In this case, review period continues to refer to the five year period comprising the fourth and fifth years of the previous regulatory control period, and the first, second and third years of the current regulatory control period. In effect, reference to the review period ensures that, when considering whether the ISP overspending requirement has been met as part of a regulatory determination for a TNSP's next regulatory control period, the AER considers all ISP projects that have been completed since the last time the AER considered whether the ISP overspending requirement had been met (ie as part of the regulatory determination for the TNSP's current regulatory control period).

- if AEMO has staged an actionable ISP project in an ISP,[93] each stage of that project which has been completed within a review period.

The first type of ISP project is an actionable ISP project (specified in the ISP) that has been completed, which is defined in paragraph (1) of the definition, as being commissioned and energised. The second type of ISP project is an actionable ISP project where AEMO has specified it as 'staged' in the ISP. In this case we recommend that each stage of the project be eligible for a targeted ex post review once the stage is completed. For example, this could include projects like Marinus Link where, in the 2022 ISP, it is defined as one single actionable ISP project with cable 1 and 2 specified as distinct stages. Allowing the AER to conduct an ex post review at the completion of a stage, rather than waiting until the entire actionable ISP project is completed, would minimise the risk of delaying the AER review of capex incurred on an actionable ISP project with multiple stages until the final project is completed, which could take multiple five-year periods.[94] We note that in the case of a staged project, completion of a stage may not necessarily be marked by commissioning and/or energisation. For this reason at he proposed definition in paragraph (2) does not refer to these concepts. This change would increase transparency and certainty for TNSPs.

The Commission recommends introducing an ISP project review period

The Commission recommends introducing the concept of an '**ISP project review period**' in the Rules to remove limitations on the AER only considering capex incurred within the existing five year review period.[95] This change would enable the AER to assess and decide the efficiency of any capex overspend incurred on an ISP project running across multiple periods once the project is complete. The review period would cover all years in which capex was incurred on an actionable ISP project (or stage of an actionable ISP project).

Our recommendation would address AER concerns regarding its ability to assess the materiality and efficiency of capex overspends if a TNSP incurs capex on an ISP project across multiple review periods. It will enable the AER to access complete information on matters such as project specific capex drivers and project specific management practices and processes which are important inputs in understanding whether capex incurred is prudent and efficient.

The recommended changes should reduce the administrative burden for both the AER and TNSPs by reducing the time and effort required to gather and assess information and evidence to determine the materiality and efficiency of an overspend. It should also support the AER in undertaking its functions in a way that reduces costs to consumers.

93 Clause 5.22.6(a)(6)(vi) of the NER.

94 For the avoidance of doubt, an actionable ISP project which is being progressed via staged CPAs for the purposes of cost recovery, but which has not been identified in the ISP as a staged actionable ISP project, would not be eligible for an ex post review until the entire project is complete (that is, commissioned and energised) under the recommended Rule.

95 The 'ISP project review period' would be defined as the regulatory years, of one or more regulatory control periods, in which capex was incurred in relation to a reviewable ISP project. Proposed amendment to NER clause S6A.2.2A(a1).

4.2.3 Timing of ex post review: The AER would make a decision on RAB adjustments as part of the draft decision for a TNSP's regulatory determination

The current approach whereby the AER conducts an ex post review at the time it prepares a draft decision on a TNSP's regulatory determination for the next regulatory control period is maintained.

The Commission recognises that delays between when an ISP project is completed and when the AER makes a decision on whether a capex overspend is inefficient or imprudent and will be excluded from the RAB, may create some uncertainty for TNSPs. On balance, the Commission considers it is important that the AER conducts an ex post review of ISP project capex overspend at the same time as an ex post review of non-ISP capex overspend. Ensuring these reviews would (if triggered) run in parallel would:

- avoid unnecessary administrative costs associated with the AER potentially having to conduct multiple ex post reviews across a regulatory control period
- support the AER in assessing relevant data to identify any trends where there has been an overspend of both ISP and non-ISP capex
- provide clarity and transparency to the relevant TNSP around the AER's approach to capital expenditure more broadly – that is, to both past and future capex.

4.2.4 Implementation: The recommended rule changes would require changes to AER Guidelines

The AER would need to update its Capital Expenditure Incentives Guidelines

The current version of the Guidelines set out the AER's approach to excluding certain types of capex from being included in the roll forward of the RAB. If our recommended rule to implement the targeted ex post review mechanism for ISP projects is made, the AER would be required to update its *Capital Expenditure Incentive Guidelines* to distinguish between the treatment of non-ISP and ISP capex.[96] This change would ensure that the manner in which the AER will make a determination regarding reductions for inefficient past ISP capex is subject to consultation and easily accessible in a guideline recognised in the Rules. The recommended change will also ensure the AER's assessment of ISP and non-ISP capex in an ex post review is transparent, further increasing certainty to TNSPs.

The AER would retain flexibility and discretion to determine the manner in which it would make a determination where the recommended ISP overspending requirement is satisfied (consistent with the approach to the existing overspending requirement).

We recommend a transitional rule to provide certainty

A transitional rule would be needed to allow the AER to amend the *Capital Expenditure Incentive Guidelines* (and any other schemes, models and guidelines) to reflect the new ISP provisions before they take effect. This would allow the AER to comply with the new provisions from the date they take effect. This would provide certainty for the AER and TNSPs. We propose a transitional rule as follows:

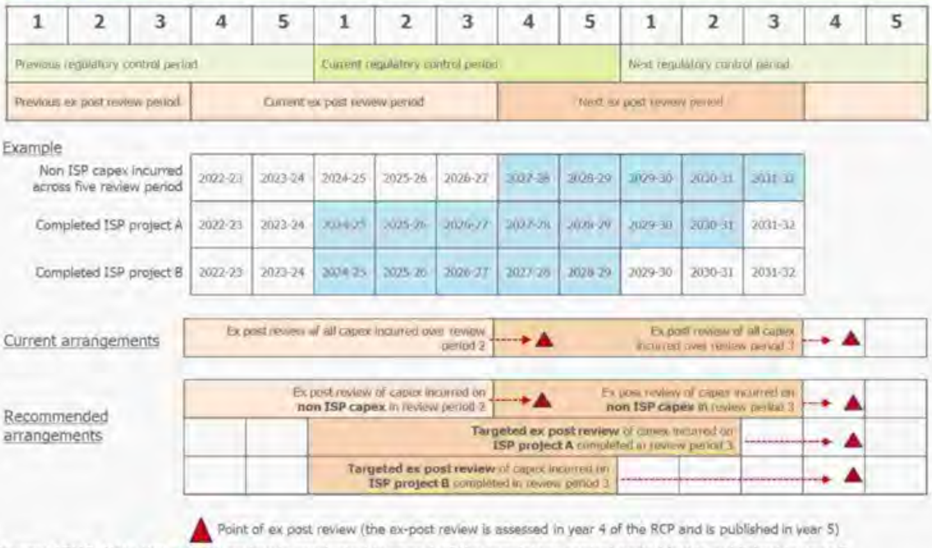
96 Rule 6A.5A(b) of the NER.

- By the effective date of the amending rule, the AER must review and, where necessary or desirable, amend and publish AER procedures, guidelines and other documents to take into account the amending rule.
- The AER must follow the process for amending those documents (if any) specified in the Rules, eg the transmission consultation procedures.
- Amendments to any AER guidelines etc. would take effect on the effective date of the amending rule.

4.2.5 Summary: Operation of a targeted ex post review for completed ISP projects

Figure 4.2 provides an example of how the recommended targeted ex post review mechanism would operate compared to the current ex post review mechanism in the Rules.

Figure 4.2: Overview of the recommended arrangements - targeted ex post review



Source: AEMC. Note the ex-post review is conducted in year 4 of the regulatory control period but is published in year 5.

ABBREVIATIONS

AEC	Australian Energy Council
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Capex	Capital expenditure
CBA	Cost-benefit analysis
CEC	Clean Energy Council
CEIG	Clean Energy Investor Group
CESS	Capital Expenditure Sharing Scheme
Commission	See AEMC
CPA	Contingent project application
ENA	Energy Networks Australia
ESB	Energy Security Board
FFI	Fortescue Future Industries
ISP	Integrated System plan
MCE	Ministerial Council on Energy
MLPL	MarinusLink Pty Ltd
NEL	National Electricity Law
NEM	National Energy Market
NEO	National electricity objective
NER	National Electricity Rules
NPV	Net present value
NSW	New South Wales
ODP	Optimal development path
PACR	Project assessment conclusions report
PADR	Project assessment draft report
PIAC	Public Interest Advocacy Centre
PSCR	Project specification consultation report
PTNSP	Primary transmission network service provider
RAB	Regulated asset base
REA	RE-Alliance
RIT-D	Regulatory investment test for distribution
RIT-T	Regulatory investment test for transmission
TAPR	Transmission Annual Planning Report
TDI	Timely delivery incentive
TNSP	Transmission network service provider

TPIR	Transmission Planning and Investment Review

A INTRODUCING A TIMELY DELIVERY INCENTIVE WILL NOT BE PROGRESSED

The Commission has decided not to progress further work on the development of a timely delivery incentive (TDI) under this Review. The TDI was raised as a potential solution to the issue of TNSPs having an exclusive right but no corresponding obligation to invest in and deliver transmission projects.

Other AEMC reforms recommended under this Review and existing jurisdictional levers address many of the concerns around TNSP incentives to make timely investment decisions and, once the decision is made, to deliver projects on time. These reforms should be given time to mature before determining whether there is a case for further intervention, such as introducing a TDI.

Further, in light of stakeholder feedback that there is a lack of evidence of a problem and that designing a framework to support a TDI would be challenging, the Commission considers the benefits of undertaking further work on a TDI at this point are unlikely to outweigh the costs of doing so.

This appendix provides a brief overview of the problem the TDI was seeking to solve, and the Commission's reasons for ceasing work on the TDI, having regard to stakeholder feedback.

A.1 The TDI was raised as a potential solution to TNSPs having an exclusive right but no obligation to deliver transmission

Under the national regulatory framework, TNSPs have an exclusive right to build, own and operate transmission solutions in the NEM, but no obligation to deliver transmission projects.[97] The consultation paper for the Review identified this feature of the regulatory framework as potentially problematic, creating an environment of risk and uncertainty around the delivery of major transmission projects.

There are currently no alternatives under the national framework if a TNSP decides not to invest and deliver a certain project.[98] A TNSP also faces no regulatory consequences should it delay or not invest in a major transmission project. The implication of this is that there is a risk that major transmission projects that offer net market benefits and are critical for the transition to net zero, may not proceed in a timely way. This risk could manifest where there is misalignment between the long-term interests of consumers and the commercial considerations of investors.[99]

97 The NEL and NER do not expressly provide that the primary TNSP (PTNSP) has the exclusive right to implement major transmission projects in its region. There are several examples of transmission projects in the NEM that have been undertaken by a person other than the PTNSP, such as BassLink, MurrayLink, DirectLink and the proposed CopperString 2.0 project. However, other than for dedicated connection assets, there is currently no national regulatory process to facilitate the contestable procurement of transmission projects, and the proponent of a contestable project would face considerable regulatory uncertainty.

98 Note that several jurisdictional mechanisms exist for the provision of transmission infrastructure outside the national framework. These include the Electricity Infrastructure Roadmap in New South Wales, the Victorian Transmission Investment Framework, the Queensland Energy and Jobs Plan and Queensland SuperGrid Infrastructure Blueprint, and recent government announcements regarding joint government ownership and funding for Marinus Link.

99 In the Stage 2 draft report, several examples of this misalignment were provided, including that TNSPs consider that a major

The Commission raised the possibility of introducing a new incentive mechanism as a means of managing the potential risk associated with TNSPs' exclusive right but no obligation to invest in the Stage 3 draft report.[100] The intention of this mechanism – termed the 'timely delivery incentive' – would be to encourage timely investment and delivery of major transmission infrastructure by offering TNSPs financial rewards and/or penalties in a way that better aligns their interests with those of consumers.

A.2 The Commission considers there is currently no case for change

The Commission has decided not to progress work on a timely delivery incentive as a means of encouraging timely and efficient investment and delivery decisions by TNSPs. The Commission's reasons for this decision are outlined below. Stakeholder feedback to the Stage 3 draft report supports our decision.[101]

A.2.1 Other AEMC reforms and existing jurisdictional levers address timely and efficient investment

In submissions to the Stage 3 draft report, several stakeholders referred to the AEMC's Stage 2 final recommendations on financeability and concessional finance as a means of addressing the key financeability challenges potentially impacting timely investment decisions. In addition, several stakeholders noted that the AEMC's Stage 2 final recommendations on social licence and work on the economic assessment process will help with timely delivery of projects. Collectively, the Commission's suite of recommended changes in stages 2 and 3 of this Review would (if made) support TNSPs in managing risks associated with investment in and delivery of major projects.

Stakeholders also cited the existence of jurisdictional powers to direct investment in certain circumstances as an appropriate protection against TNSPs not investing in major transmission projects. We note that both New South Wales and Victoria have state-based powers to direct investment,[102] while state ownership of transmission businesses in Queensland and Tasmania allow for more direct control of the investment decision-making processes.[103]

Several stakeholders also expressed the view that contestability would be a better means of addressing concerns regarding the exclusive right issue than a TDI.[104] As explained in the contestability directions paper, the Commission has placed the contestability workstream of the Review on hold while it continues progressing Stage 2 and 3 reforms via any rule changes received.[105]

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project presents more risk than they would be compensated for under the regulatory framework, or where the profile of cash flows is not consistent with investor preferences.

100 AEMC, *Transmission planning and investment review – Stage 3*, draft report, 21 September 2022, pp. 80-91.

101 Of the 25 stakeholders who provided submissions to the Stage 3 draft report, only 17 stakeholders commented on the potential introduction of a TDI. Of those 17, only one stakeholder (Corio Generation) offered tentative support while the remaining 16 stakeholders did not consider it necessary or appropriate to introduce a TDI (AEMO, AER, Australian Energy Council (AEC), AGL, CEC, CEIG, Consumer Reference Group, Energy Australia, ENA, FFI, MLPL, Origin, PIAC, Transgrid, Tilt, TasNetworks).

102 In NSW, the *Electricity Infrastructure Investment Act 2020 (NSW)* (EII Act) gives power to the NSW Minister to direct the delivery of certain transmission projects. In Victoria, the *National Electricity (Victoria) Amendment Act 2020* gives the Minister the power to order the carrying out certain transmission projects.

103 Only in South Australia is there no corresponding arrangements/power to direct.

104 Submissions to Stage 3 draft report: AEC, p. 4; AER, p. 7; AGL, p. 5; CEIG, p. 12; Origin, pp. 1, 3-4; PIAC, p. 9; FFI, p. 5.

A.2.2 There is no evidence to suggest that the regulatory framework causes material delays or non-delivery of projects

In submissions to the Stage 3 draft report, stakeholders were unanimous in their views that there is no evidence to suggest that the 'exclusive right, no obligation' feature of the regulatory framework is resulting in material delays or non-delivery of major transmission projects in the NEM.[106] Stakeholders expressed confidence in the design of the existing incentive-based regulatory framework as an effective means of managing risks around timely investment in and delivery of critical transmission infrastructure by TNSPs.[107]

The Commission considers there is no need to progress further work on a timely delivery incentive in the absence of material evidence to suggest that TNSPs' exclusive right to deliver projects is resulting in delays or non-delivery of major transmission projects.

A.2.3 Designing a framework to support a TDI would be challenging

The Commission notes that the complexity and cost of designing the rules to support a TDI mechanism would likely outweigh any benefit from doing so at this stage.

Stakeholders were unanimous in their views that designing a TDI would be inherently challenging[108] and could have perverse consequences, in that TNSPs could rush to complete projects to avoid any penalties, risking efficient cost, social licence and quality outcomes. Others expressed concern that a TDI may provide strong incentives for TNSPs to push delivery dates out during the ISP joint planning process in order to be in a better position to "beat" the incentive.[109] If a martial issue does arise in the future the Commission considers further work on the design of a TDI could be undertaken then.

105 AEMC, *Transmission planning and investment review- Contestability*, Directions paper, 24 November 2022.

106 Submissions to Stage 3 draft report: AER, p. 5; CEC, p. 3; ENA, p. 10; MLPL, p. 4; TasNetworks, p. 3; Origin, pp. 1, 3; Transgrid, p. 6.

107 Submissions to Stage 3 draft report: AER, p. 5; AGL, p. 5; CEC, p. 3; Energy Australia, pp. 4-5; TasNetworks p. 3, Tilt, p. 4; Consumer Reference Group.

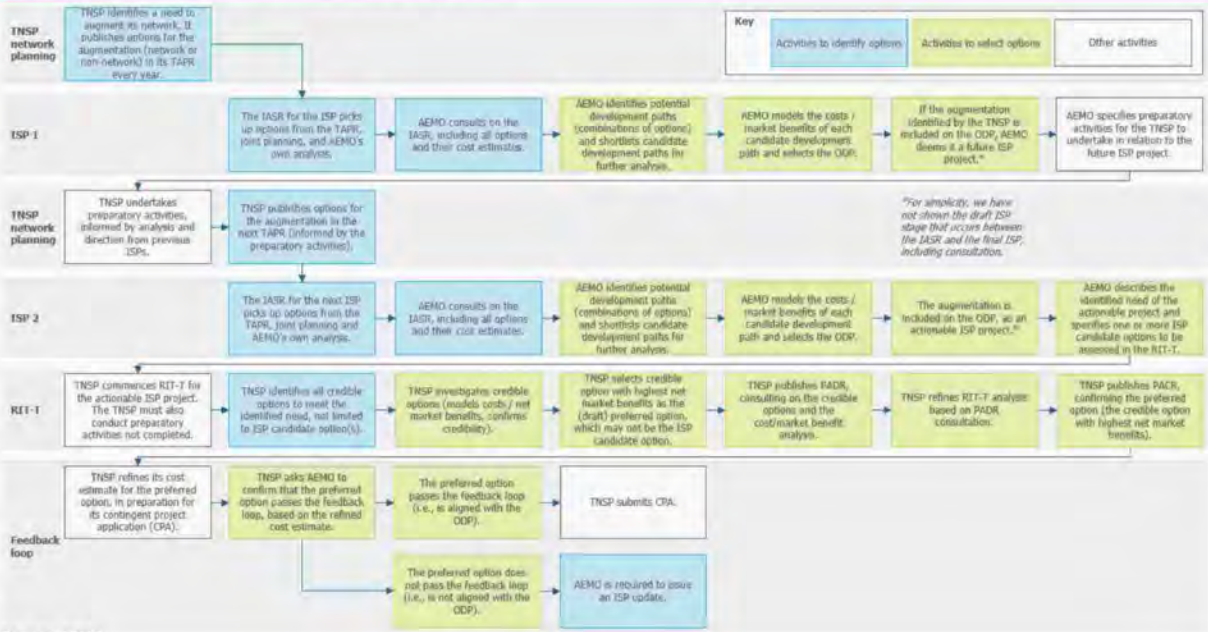
108 Design challenges include: identifying benchmark dates given the inherent uncertainty associated with the optimal timing of ISP/major transmission projects and difficulties determining the quantum of payments or penalties that would be applied and how these payments would flow through to prices. See submissions to Stage 3 draft report: AEMO, pp. 16-17; AER, p. 7; MLPL, p. 4; TasNetworks, p. 3; Transgrid, p. 7.

109 Submissions to Stage 3 draft report: CEC, p. 3; Energy Australia, p. 5; AER, p. 6; ENA, pp. 10-11; Corio Generation, p. 3; AEMO, p. 16.

B CURRENT ECONOMIC ASSESSMENT PROCESS

Figure B.1 below illustrates the existing economic assessment process for ISP projects.

Figure B.1: Current economic assessment process



Source: AEMC