

Supplementary Draft Decision

Marinus Link Stage 1, Part B (Construction costs)
Electricity Transmission Determination
2025–30

November 2025

© Commonwealth of Australia 2025

This work is copyright. In addition to any use permitted under the *Copyright Act 1968* all material contained within this work is provided under a Creative Commons Attributions 4.0 Australia licence with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 4.0 AU licence.

Important notice

The information in this publication is for general guidance only. It does not constitute legal or other professional advice. You should seek legal advice or other professional advice in relation to your particular circumstances.

The AER has made every reasonable effort to provide current and accurate information, but it does not warrant or make any guarantees about the accuracy, currency or completeness of information in this publication.

Parties who wish to re-publish or otherwise use the information in this publication should check the information for currency and accuracy prior to publication.

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601
Email: aerinquiry@aer.gov.au
Tel: 1300 585 165

AER reference: 23007164

Amendment record

Version	Date	Pages
1	27 November 2025	53

Invitation for submissions

Interested stakeholders are invited to make a submission on both our Supplementary Draft Decision and Marinus Link Pty Ltd's revised proposal by Friday, **19 December 2025**.

Submissions should be sent to: marinuslink2025@aer.gov.au and addressed to Dr Kris Funston, Executive General Manager, Network Regulation. Alternatively, you can mail submissions to GPO Box 3131, Canberra ACT 2601.

Submissions should be in Microsoft Word or another text readable document format.

We prefer that all submissions be publicly available to facilitate an informed and transparent consultative process. We will treat submissions as public documents unless otherwise requested.

Parties wishing to submit confidential information should:

1. Clearly identify the information that is the subject of the confidential claim.
2. Provide a non-confidential version of the submission in a form suitable for publication.

All non-confidential submissions will be published on our website.

Pre-determination conference

Stakeholder engagement is a valuable input to our determination. We encourage all interested stakeholders to join us for the Marinus Link predetermination conference via an online public forum on **4 December 2025**. Details of how to register for this forum are available on our website and through Eventbrite.

Executive Summary

The Australian Energy Regulator (AER) exists to ensure energy consumers are better off, now and in the future. Consumers are at the heart of our work, and we focus on ensuring a secure, reliable, and affordable energy future for Australia as it transitions to net zero emissions (the transition).

Marinus Link is a component of 'Project Marinus,' a single actionable project under the Australian Energy Market Operator's (AEMO) 2024 Integrated System Plan (ISP) optimal development path.¹ Project Marinus also includes the North West Transmission Development which is currently being progressed by TasNetworks. Stage 1 of Project Marinus will deliver a 750 megawatt (MW) interconnector between Victoria and Tasmania (Cable 1) and associated network upgrades under the North West Transmission Development. Stage 2 will provide a second 750 MW interconnector (Cable 2) and further associated network upgrades.

The costs of Project Marinus will be recovered through transmission charges levied on Victorian and Tasmanian electricity customers. The recovery of costs will occur once Marinus Link commences services, which is expected in 2030, and the allocation of the costs between Victoria and Tasmania will be based on an agreement that has been reached between the Victorian and Tasmanian Governments.

The role of the AER is to assess the prudence and efficiency of the costs proposed by Marinus Link Pty Ltd (MLPL).

This document sets out our Supplementary Draft Decision for MLPL's Stage 1, Part B (Construction costs) revenue proposal (construction costs proposal). A final decision is expected to be published in February 2026.

Australia's energy sector is transitioning towards a net zero future, with the Australian Government targeting 82% renewable electricity in our electricity grids by 2030. The transition is further supported by individual state renewable energy targets set in Tasmania and Victoria. Project Marinus is identified as an actionable project in the 2024 ISP and considered a priority to meet future energy needs and government policy targets.²

We are mindful that our Supplementary Draft Decision comes at a challenging time for energy consumers, many of whom share concerns about energy affordability and security as well as the impact large scale energy infrastructure projects may have on the environment and communities. It is important that we continue to hear from stakeholders throughout the process so that we can consider their views and ensure our decisions meets the long term interest of consumers.

Our assessment of MLPL's proposal

We have previously determined to commence a transmission determination process for MLPL under the Intending Transmission Network Service Provider (Intending TNSP)³

¹ Australian Energy Market Operator (AEMO), [2024 Integrated System Plan](#), June 2024, p 57.

² AEMO is expected to release the 2026 Draft ISP in December 2025.

³ Australian Energy Regulator (AER), [Marinus Link – Notice of decision and Commencement and Process Paper](#), June 2023.

provision of the National Electricity Rules (NER). We published a Commencement and Process Paper⁴ specifying a modified process for making the transmission determination. Our Commencement and Process Paper sets out that the first regulatory period is from 1 July 2025 to 30 June 2030. This allows the first regulatory control period to coincide with the likely commissioning date of Marinus Link's first cable.⁵

The Commencement and Process Paper sets out a staged approach comprising:

- Stage 1, Part A (Early works), referred to in this paper as the 'early works proposal'. This determined the pre-construction costs that can be included in the opening regulatory asset base (RAB). The AER's decision regarding early works was published in December 2023.⁶
- Stage 1, Part B (Construction costs), referred to in this paper as the 'construction costs proposal'. This determines the construction costs that can be included in the opening RAB.
- Stage 2 revenues (to be finalised in 2030), referred to in this paper as the 'Stage 2 revenue proposal'. This will determine MLPL's revenues using the RAB determined in the Stage 1 decisions.

On 29 November 2024, MLPL submitted its Stage 1 construction costs proposal⁷ for \$3,534.3 million (\$2023) in capital expenditure (capex). Any construction costs approved by us will form the basis for a subsequent revenue determination which MLPL will lodge in 2029. The process for making our determination on the construction costs proposal is prescribed in our most recent Commencement and Process Paper released in December 2024. We have adopted a two-stage approach for Stage 1 construction costs where our Initial Draft Decision was limited to the market tested costs, approximately 46% of the total proposed construction cost expenditure.

Our Initial Draft Decision⁸ accepted the market tested costs, with a total forecasted capex of \$1,632.2 million (\$2023). This comprised \$737.2 million (\$2023) for the converter station design and equipment supply and \$895.0 million (\$2023) for the high voltage direct current (HVDC) cable system consisting of submarine and land cables.

On 15 July 2025, MLPL provided a revised proposal⁹ in response to our Initial Draft Decision. The revised proposal contained redactions to market sensitive information due to ongoing tender negotiations, including forecast expenditure for the balance of works, support activities and risk allowance. On 17 October 2025, MLPL provided updated forecast expenditure¹⁰ including balance of works, support activities and risk allowance, with revised forecast capex of \$3,495.3 million (\$2023).

⁴ AER, [Marinus Link - Revised Commencement and Process Paper](#), December 2024.

⁵ AER, [Marinus Link – Decision to amend commencement and process paper](#), March 2024.

⁶ AER, [Revenue Determination - Marinus Link - Stage 1, Part A \(Early works\)](#), December 2023.

⁷ Marinus Link Pty Ltd (MLPL), [ML-B-002 MLPL Revenue Proposal Stage 1 - Part B \(Construction\)](#), December 2024.

⁸ AER, [Initial Draft Decision - Marinus Link Stage 1, Part B \(Construction costs\) Transmission Determination 2025–30](#), May 2025.

⁹ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025.

¹⁰ MLPL, [Attachment 1 - Marinus Link Update to Revised Revenue Proposal](#), October 2025.

Consistent with our Commencement and Process Paper, our Supplementary Draft Decision assesses the remaining expenditure that was not considered in our Initial Draft Decision. This comprises \$909.1 million (\$2023) for the balance of works, \$539.3 million (\$2023) for support activities and \$361.5 million (\$2023) for the proposed risk allowance.

Our decision is to not accept MLPL’s proposed capex of \$3,495.3 million (\$2023). Instead, we substitute an alternative estimate of \$3,316.9 million (\$2023), 5.1% lower than MLPL’s proposal, to ensure consumers pay no more than necessary for the delivery of the project.

Our Supplementary Draft Decision is to:

- Accept the balance of works costs of \$909.1 million (\$2023).
- Not accept MLPL’s proposed support activity costs of \$539.3 million (\$2023) and instead apply an alternative allowance of \$523.8 (\$2023) million, as the Supplementary Draft Decision excludes expenditure for corporate roles that we consider MLPL have not sufficiently justified.
- Not accept MLPL’s proposed risk allowance of \$361.5 million (\$2023), and instead apply an alternative allowance of \$198.7 million (\$2023), as we consider MLPL has not sufficiently justified or supported that its proposed risk allowance is prudent and efficient.
- Accept MLPL’s updated costs for converter stations, \$776.7 million (\$2023) and HVDC cables, \$908.6 million (\$2023).

Other key elements of our Supplementary Draft Decision include to:

- Apply the capital expenditure sharing scheme (CESS), but not accept MLPL’s proposed capped 10:90 sharing ratio. Rather a 30:70 sharing ratio should apply to MLPL, but that this should be limited to the first 10% of any over- or under-spend by MLPL. Any over- or under-spend that exceeds the first 10% will apply a reduced ratio of 10:90.
- Not accept MLPL’s proposed nominated cost pass through events for biodiversity event, unavoidable contract variations event, contractor insolvency event or contractor force *majeure* event.

This document sets out the assessment approaches applied; enquiries made as part of our review and rationale for our Supplementary Draft Decision.

Feedback loop and RIT-T update

The most recent Commencement and Process Paper in December 2024 set an expectation that MLPL would complete both AEMO’s feedback loop process and update its regulatory investment test for transmission (RIT-T). We considered these processes were necessary to provide stakeholders with confidence that Project Marinus, comprising both Marinus Link and the North West Transmission Development, remains on the 2024 ISP optimal development path and will deliver benefits to consumers.¹¹

The Project Marinus RIT-T was completed in June 2021 with the most recent update published in July 2025¹², consistent with the expectation set in the Commencement and Process Paper. MLPL concluded that the preferred option (the two cable option) remained

¹¹ AER, *Marinus Link - Revised Commencement and Process Paper*, December 2024.

¹² All RIT-T reports and updates are available at <https://www.marinuslink.com.au/rit-t-process>.

the same as identified in the project assessment conclusions report. We have undertaken a review of the RIT-T update and conclude that MLPL’s opinion, that the two cable option remains the preferred option, is not unreasonable.¹³

On 11 July 2025, MLPL and TasNetworks jointly requested a feedback loop assessment of Project Marinus. On 15 August 2025, AEMO announced Project Marinus passed the feedback loop assessment¹⁴, confirming:

- Project Marinus addresses the relevant identified need in the 2024 ISP, and
- The total project cost \$7,570 million (\$2023), including Stage 1 costs of \$5,035 million and Stage 2 costs of \$2,535 million, does not change the status of the actionable ISP project as part of optimal development path in the 2024 ISP.

Project Marinus, including Stage 2 costs, will be subject to a feedback loop assessment to confirm alignment with the optimal development path in the 2026 Draft ISP, which is expected in December 2025.

Next steps

Following our Supplementary Draft Decision, stakeholders will have an opportunity to provide a submission addressing any matters raised in the Supplementary Draft Decision. We will consider these submissions in developing our Final Decision. As outlined in Table 1, submissions in response to our Supplementary Draft Decision will close in December 2025.

Table 1 Indicative timeline – Marinus Link – Stage 1, Part B (Construction costs) electricity transmission determination

Milestone	Date
Supplementary Draft Decision predetermination conference	4 December 2025
Submissions in response to Supplementary Draft Decision close	19 December 2025
AER final decision on Stage 1, Part B (Construction costs) proposal	6 February 2026

¹³ To satisfy the requirements of the RIT-T, MLPL was required to form a reasonable opinion that there has not been a material change in circumstances which means the preferred option is no longer the preferred option. We have considered whether MLPL’s opinion is unreasonable consistent with the approach adopted for the HumeLink contingent project application decision available at <https://www.aer.gov.au/industry/networks/contingent-projects/transgrid-humelink-contingent-project-stage-2/decision>.

¹⁴ AEMO feedback loop assessments are available at <https://aemo.com.au/en/energy-systems/major-publications/integrated-system-plan-isp/integrated-system-planfeedback-loop-notice>.

Contents

Invitation for submissions	iii
Pre-determination conference	iii
Executive Summary	iv
Our assessment of MLPL’s proposal	iv
Feedback loop and RIT-T update	vi
Next steps	vii
1 Stakeholder engagement	1
1.1 Marinus Link’s engagement	1
1.2 What we have heard from stakeholders	2
2 Key components of our Supplementary Draft Decision	4
2.1 Capitalisation of expenditure	4
2.2 Rate of return and value of imputation credits	7
2.3 Capital expenditure	9
3 Incentive schemes	23
4 Pass through events	28
5 Contingent Project Application	40
6 Constituent decisions	41
7 List of submissions	43
8 Shortened Forms	44

1 Stakeholder engagement

Stakeholder engagement is an important element of the regulatory process as it provides us with supporting evidence that proposals are aligned with consumer interests and expectations. Our expectations for consumer engagement in network revenue determinations are set out in the Better Resets Handbook.¹⁵

We recognise the scope of MLPL’s construction cost proposal is narrower than a typical revenue proposal given Marinus Link will not be operational, nor recover costs from consumers, until 2030. Consequently, MLPL’s construction cost proposal does not consider issues relating to operating expenditure, replacement or augmentation capex, service performance or transmission pricing. However, we consider effective consultation should inform aspects of the construction cost proposal, including application of the CESS, capex and cost pass throughs.

1.1 Marinus Link’s engagement

MLPL has continued to engage with stakeholders following publication of the Initial Draft Decision on 16 May 2025, including convening two Consumer Advisory Panel (CAP) meetings. The first CAP meeting on 20 May discussed key elements of Initial Draft Decision, including application of the CESS, cost pass throughs and social licence. A subsequent meeting on 11 July provided CAP members with an overview of MLPL’s draft revised revenue proposal. These meetings continued the effective consultation between MLPL and CAP members that commenced in 2022.

In part, in response to divergent stakeholder holder views regarding application of the CESS, MLPL commissioned advice from Incenta to provide analysis, including the appropriate incentive rate. While consensus has not been reached on the application of the CESS, MLPL’s engagement with the CAP, commissioning of external advice, and stakeholder submissions have all informed our Supplementary Draft Decision.

Project costs and benefits continue to emerge as a key point of interest for stakeholders during MLPL’s consumer engagement. The CAP has maintained a clear focus on this issue, including how costs and benefits are distributed between Victorian and Tasmanian consumers. In response to stakeholder interest on this issue, MLPL commissioned FTI consulting to provide updated customer benefit analysis and sought stakeholder submissions on the latest analysis. In addition, consistent with the expectation set in the Commencement and Process Paper, in July MLPL published the updated RIT-T report, including supporting modelling and latest project cost information, and invited stakeholder submissions. Given project costs and benefits are of significant stakeholder interest, the RIT-T update and FTI consulting’s updated customer benefit analysis, are important initiatives to provide stakeholders with confidence that Project Marinus will deliver benefits to consumers.

¹⁵ AER, [Better Resets Handbook – towards consumer-centric network proposals](#), July 2024.

1.2 What we have heard from stakeholders

We held a pre-determination conference on 27 May 2025 and heard from stakeholders on several important issues.

We received 6 submissions in response to our Initial Draft Decision with stakeholders providing a range of views on key issues. A further 2 submissions were received following publication of MLPL's updated proposal in October.

Incentive schemes and cost pass throughs: Submissions highlighted the importance of applying a robust CESS to support efficient delivery of Marinus Link, with a number of submissions supportive of the AER's draft decision to not accept MLPL's proposed 5:95 sharing ratio.¹⁶ Mr John Pauley's submission was notable for highlighting uncertainty over the sharing ratio for over or underspends above 10% given our Initial Draft Decision was to calculate the ratio based on the financing benefit. Our Supplementary Draft Decision broadly reflects what we have heard from consumers regarding application of the CESS.

A number of submissions supported the Initial Draft Decision to not accept the additional pass throughs nominated by MLPL given these risks can be mitigated via contracting arrangements.¹⁷

Cost to consumers and alternative funding models: Submissions suggested alternative funding approaches for large scale transmission projects, such as Project Marinus, may provide better outcomes for consumers. Professor Eccleston's submission advocated to move to a model where government and consumers contribute to the cost of major transmission projects, while the Energy Users Association of Australia (EUAA) submission noted generators should bear much of the cost of the second cable 'given they are the primary beneficiaries' as it will allow generators to sell energy into mainland markets.¹⁸

Other issues raised in submissions include concern over the environmental and social impacts of large scale transmission projects¹⁹ and support for the AER's Initial Draft Decision to not accept the contingent project for the second cable.²⁰

In its submission Hyrdo Tasmania noted support for costs associated with the second cable given AEMO's ISP includes Stage 2 of Marinus Link in all scenarios. The submission also stated approval of capex associated with the second cable would support investor confidence and enable better planning across jurisdictions.²¹

¹⁶ John Pauley, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025; Professor Richard Eccleston, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025; EUAA, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025.

¹⁷ *ibid.*

¹⁸ Professor Richard Eccleston, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025; Prof Eccleston; EUAA, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025.

¹⁹ Rainforest Reserves Australia, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025.

²⁰ EUAA, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025.

²¹ Hydro Tasmania, [Submission on Marinus Link revised proposal 2025–30](#), November 2025

We have considered stakeholder submissions in response to our Initial Draft Decision. Interested stakeholders will have a further opportunity to provide submissions in response to the Supplementary Draft Decision, prior to the Final Decision in February 2026.

2 Key components of our Supplementary Draft Decision

This section considers key elements of MLPL’s construction costs revised proposal. The AER’s Commencement and Process Paper specifies modifications to the transmission determination process including the matters for determination at each stage.²² For the construction costs proposal, the Commencement and Process Paper notes these key elements as part of the decision we would make at this current stage. Other determinants of revenues and tariffs, such as operating expenditure, depreciation, and pricing methodologies, will be considered when MLPL submits its Stage 2 revenue proposal in 2029.

2.1 Capitalisation of expenditure

This section sets out our calculation of the opening RAB as at 1 July 2030 for MLPL. This includes the escalation of capitalised costs that MLPL will recover from customers through revenues in the regulatory control period, commencing after construction has completed and commissioning of the asset has occurred.

In this Supplementary Draft Decision, we determine an opening RAB value of \$4,721.1 million (\$ nominal) as at 1 July 2030, which is \$250.5 million (5.0%) lower than the \$4,971.7 million proposed by MLPL in its revised proposal for Stage 1, Part B. It is \$349.5 million (6.9%) lower than the value determined in our Initial Draft Decision of \$5,070.7 million. The reduction is driven primarily by updates for actual capital expenditure in 2024–25 and our Supplementary Draft Decision on forecast capital expenditure for the 2025–30 regulatory period.

The opening RAB as at 1 July 2030 consists of:

- An updated opening RAB as at 1 July 2025 from that determined in our Initial Draft Decision reflecting updates for actual capital expenditure for 2024-25 as provided by MLPL in its revised proposal.
- Updated forecasts for Stage 1, Part B (Construction costs) capital expenditure for the period from 2025–26 to 2029–30.
- Return on capital for the above expenditures based on the allowed weighted average cost of capital (WACC).
- Capitalised benchmark debt and equity raising costs.

For our Supplementary Draft Decision, we have also made the following modelling amendments:

- Applied an extra year's expected inflation to the calculation of benchmark debt raising costs. This is to correct the timing of these costs to end-of-financial-year terms from start-of-financial-year, resulting in a slight increase to debt raising costs.

²² NER, cl 6A.9.3(c)(1).

- Applied the geometric mean of annual expected inflation from 2025–26 to 2029–30 to align with our method set out in the 2020 inflation review, which is implemented in our post-tax revenue model.²³
- Removed the capitalised maximum allowed revenue (associated with Stage 1, Part B expenditure) from the expenditure funding requirement of the benchmark equity raising cost calculations. While the unrecovered revenues represent a cost to MLPL, we consider these to be adequately funded through the yearly return provided by capitalisation into the opening RAB and does not require raising equity to fund these amounts. However, we are providing MLPL with equity raising costs to fund the Stage 1, Part B expenditure. All else being equal, this change reduces MLPL's Stage 1 Part B benchmark equity raising costs from \$49.0 million (\$2023–24) to \$40.9 million, a reduction of \$8.1 million (16.5%).

In determining the opening RAB as at 1 July 2030, we note the following:

- We determine an opening RAB of \$400.6 million (\$ nominal) as at 1 July 2025. This is \$53.2 million lower than the opening RAB of \$453.8 million we determined in our Initial Draft Decision. This reduction is due to updates for Stage 1, Part A (Early works) and Stage 1, Part B (Construction costs) actual capital expenditure for 2024–25. The updated opening RAB value also includes the capitalised equity raising costs for Stage 1, Part A (Early works) and Stage 1, Part B (Construction costs).
- Our calculation of the opening RAB as at 1 July 2030 does not make any adjustment for depreciation. This is because Marinus Link is not expected to be commissioned until 1 July 2030, and therefore depreciation will not commence for the 2025–30 regulatory control period.
- The approach to capitalise benchmark debt and equity raising costs into the RAB is consistent with our standard regulatory practice. These costs are to be included in the RAB because no revenue will be recovered from consumers relating to these benchmark allowances until prescribed services are expected to commence in 2030–31.
- MLPL is in discussion with Clean Energy Finance Corporation (CEFC) on the details of concessional financing. We will assess the impact of any concessional financing arrangement on the opening RAB as at 1 July 2030 once the concessional finance agreement is finalised.

Table 2 below sets out the components of our Supplementary Draft Decision opening RAB for the 2025–30 regulatory control period.

Table 2 AER Initial Draft Decision – Capitalisation of expenditure calculation for the 2025–30 period – Marinus Link Stage 1, Part B (Construction costs) (\$ million, nominal)

	2025–26	2026–27	2027–28	2028–29	2029–30
Opening RAB	400.6 ^a	946.6	2,107.3	3,108.7	4,056.6

²³ AER, [Final position paper - Regulatory treatment of inflation](#), December 2020; AER, [Amended electricity transmission PTRM](#), May 2022.

	2025–26	2026–27	2027–28	2028–29	2029–30
Part B Expenditure (Construction costs) net of grant funding	510.8	1,077.5	853.1	736.1	395.3
Allowed return on opening RAB ^b	21.5	52.9	122.6	188.0	254.7
Allowed return on annual expenditure ^c	13.5	29.7	24.5	21.9	12.2
Debt raising costs	0.2	0.6	1.3	1.9	2.4
Closing RAB	946.6	2,107.3	3,108.7	4,056.6	4,721.1

Source: AER analysis.

- (a) Includes capitalised equity raising costs for Stage 1, Part A (Early works) in 2021–22 and Stage 1, Part B (Construction costs) in 2023–24.
- (b) Calculated by multiplying the opening RAB with the allowed nominal WACC of 5.36% which will be updated annually for return on debt updates as set out in section 2.2 for the 2025–30 period.
- (c) Calculated by multiplying the expenditure (construction costs) net of grant funding with the allowed nominal WACC of 5.36% which will be updated annually for return on debt updates as set out in section 2.2 for the 2025–30 period.

2.1.1 Concessional finance

In March 2024, the Australian Energy Market Commission (AEMC) finalised a rule change regarding the passing of the benefits of concessional finance onto consumers through lower transmission revenues.²⁴ The rule change provides a mechanism for the sharing of concessional finance benefits to consumers through a specified annual reduction to the maximum allowed revenue (MAR), a reduction of the value of the specified assets in the RAB or a combination of both.²⁵

MLPL expects to receive concessional finance through the CEFC, and is required to provide the AER with a copy of the agreement within 40 business days of entering into that agreement.²⁶ Once finalised, the AER must make a concessional finance adjustment pursuant to the conditions under clause 6A.3.3 of the NER, which will reduce the costs that MLPL will need to recover from consumers once Marinus Link is commissioned in 2030.²⁷

As the concessional finance agreement had not yet been settled when the revised proposal was submitted in July, MLPL did not include the details of this agreement in its revised proposal. Instead, MLPL highlighted that these arrangements may, depending on the terms of the agreement, impact its:²⁸

- opening RAB as at 1 July 2025
- opening RAB as at 1 July 2030

²⁴ AEMC, [National Electricity Amendment \(Sharing concessional finance benefits with consumers\) Rule 2024 No. 7](#).

²⁵ AEMC, [National Electricity Amendment \(Sharing concessional finance benefits with consumers\) Rule 2024 No. 7](#), p i.

²⁶ Cl. 6A.3.3(a)

²⁷ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, pp 6–7.

²⁸ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, pp 54–55.

- return on capital in the second regulatory period, commencing 1 July 2030.

2.2 Rate of return and value of imputation credits

The AER's 2022 Rate of Return Instrument (RORI) sets out the approach we will use to estimate the return on debt, the return on equity and the overall rate of return.²⁹

The return each business is to receive on its RAB, known as the 'return on capital', is a key driver of proposed revenues. We calculate the regulated return on capital by applying a rate of return to the value of the RAB.

We estimate the rate of return by combining the returns of two sources of funds for investment: equity and debt. The allowed rate of return provides the business with a return on capital to service the interest rate on its loans and give a return on equity to investors.

The estimate of the rate of return is important for promoting efficient prices in the long term interests of consumers. If the rate of return is set too low, the network business may not be able to attract sufficient funds to be able to make the required investments in the network and reliability may decline. Conversely, if the rate of return is set too high, the network business may seek to spend too much and consumers will pay inefficiently high tariffs.

We are required by national energy laws and rules to apply the RORI to estimate an allowed rate of return. For this Supplementary Draft Decision, we have applied the 2022 RORI.³⁰ This Supplementary Draft Decision on the rate of return supersedes the Initial Draft Decision.

MLPL's revised proposal adopted the 2022 RORI. The 5.36% (nominal vanilla) rate of return in this Supplementary Draft Decision is the same as that adopted in MLPL's revised proposal, as well as that in our Initial Draft Decision. This is because MLPL's actual risk-free rate and debt averaging periods are applied in both the Initial Draft Decision and Supplementary Draft Decision.³¹ As our Initial Draft Decision accepted MLPL's proposed risk-free rate and debt averaging periods³², and these periods were not changed in MLPL's revised proposal³³, they have not been revisited in this Supplementary Draft Decision.

Our calculated rate of return in Table 3 applies to the first regulatory year of the 2025–30 period. A different rate of return may apply for the remaining years of the period. This is because we will update the return on debt component of the rate of return each year, in accordance with the 2022 RORI, to use a 10-year trailing average portfolio return on debt that is rolled-forward each year. Hence, only 10% of the return on debt is calculated from the most recent averaging period, with 90% from prior periods.

²⁹ AER, [Rate of Return Instrument \(Version 1.2\)](#), March 2024.

³⁰ AER, [Rate of Return Instrument \(Version 1.2\)](#), March 2024.

³¹ AER, [Initial Draft Decision - Marinus Link Stage 1, Part B \(Construction costs\) Transmission Determination 2025–30](#), May 2025, p 7; MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 53.

³² AER, [Initial Draft Decision - Marinus Link Stage 1, Part B \(Construction costs\) Transmission Determination 2025–30](#), May 2025, p 7.

³³ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 54.

Table 3 Supplementary Draft Decision on MLPL's rate of return (nominal)

	AER's Initial Draft Decision (2025–30)	MLPL's revised proposal (2025–30)	AER's Supplementary Draft Decision (2025–30)	Allowed return over the regulatory control period
Nominal risk-free rate	4.47% ^a	4.47%	4.47% ^a	
Market risk premium	6.20%	6.20%	6.20%	
Equity beta	0.6	0.6	0.6	
Return on equity (nominal post-tax)	8.19%	8.19%	8.19%	Constant (%)
Return on debt (nominal pre-tax)	3.46% ^b	3.46%	3.46% ^b	Updated annually
Gearing	60%	60%	60%	Constant (60%)
Nominal vanilla WACC	5.36%	5.36%	5.36%	Updated annually for return on debt
Expected inflation	2.72%	2.66% ^c	2.82%	Constant (%)

Source: AER analysis; AER, *AER Initial Draft Decision - Marinus Link Stage 1, Part B (Construction costs) Transmission Determination 2025–30*, 16 May 2025, pp 7-8; MLPL, *MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B (Construction) - July 2025*, July 2025, pp 53-54.

- (a) Calculated using MLPL's risk-free rate averaging period of 20 business days from 3 January 2025 to 31 January 2025.
- (b) Calculated using MLPL's actual nominated return on debt averaging period.
- (c) MLPL provided separate annual inflation forecasts for each regulatory year. The inflation forecast shown in the table is a geometric average of MLPL's annual forecasts over the 2025–30 regulatory control period. The first year expected inflation in MLPL's forecasts is 3.10%.

Debt and equity raising costs

In addition to compensating for the required rate of return on debt and equity, we provide an allowance for the transaction costs associated with raising debt and equity. We include debt raising costs in the opex forecast because these are regular and ongoing costs which are likely to be incurred each time service providers refinance their debt. On the other hand, we include equity raising costs in the capex forecast because these costs are only incurred once and would be associated with funding the particular capital investments. Our approach to forecasting debt and equity raising costs is set out in more detail in our past determinations.³⁴ MLPL has proposed to use our approach to estimate debt and equity raising costs.³⁵

³⁴ AER, *Draft Decision Attachment 3 - Rate of return - Ergon Energy - 2025–30 Distribution revenue proposal*, September 2024, pp 4–6.

³⁵ MLPL, *MLPL-B-015 Revised Revenue Proposal Regulatory Financials*, October 2025.

Our Supplementary Draft Decision is to apply a debt raising cost of 9.74 basis points per annum, which has been used to calculate the debt raising cost forecast set out in section 2.1.

We have updated our estimate for the 2025–30 period based on the benchmark approach using updated inputs. This results in equity raising costs of \$40.9 million (\$2023).

Imputation credits

Our Supplementary Draft Decision applies a value of imputation credits (gamma) of 0.57, as set out in the 2022 RORI.³⁶ MLPL’s initial and revised proposals also adopted this value.³⁷

Expected inflation

As set out in Table 4, our estimate of expected inflation is 2.82%. It is an estimate of the average annual rate of inflation expected over a five-year period based on the outcome of our 2020 inflation review.³⁸ MLPL’s initial and revised proposals also adopted our approach.³⁹

Table 4 Supplementary Draft Decision on MLPL's forecast inflation (%)

	Year 1	Year 2	Year 3	Year 4	Year 5	Geometric average
Expected inflation	3.70%	2.70%	2.63%	2.57%	2.50%	2.82%

Source: AER Analysis; RBA, Statement on Monetary Policy, November 2025, Table 3.1: Detailed Forecast Table. See: <https://www.rba.gov.au/publications/smp/2025/nov/outlook.html#table-3-1>

Our Supplementary Draft Decision uses the Reserve Bank of Australia’s (RBA) November 2025 Statement on Monetary Policy which contains a consumer price index forecast for the year ending June 2027. This means the first two years of the 2025–30 period is based on RBA forecasts and, thereafter, a linear glide path from year three to the mid point of the RBA’s inflation target band of 2.5% in year five.

2.3 Capital expenditure

Capital expenditure (capex)—the capital costs and expenditure incurred in the provision of network services—mostly relates to assets with long lives, the costs of which are recovered over the life of those assets. Forecast capex directly affects the size of the capital base and the revenue generated from the return on capital and depreciation building blocks.

As we set out in the following sections, our Supplementary Draft Decision substitutes an alternate capex forecast of \$3,316.9 million compared to \$3,495.3 million (\$2023) which was included in MLPL’s October update to its revised proposal.⁴⁰

³⁶ AER, [Rate of return Instrument \(version 1.2\)](#), March 2024, cl. 27.

³⁷ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 53.

³⁸ AER, *Final position, Regulatory treatment of inflation*, December 2020.

³⁹ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 54.

⁴⁰ MLPL, [Attachment 1 - Marinus Link Update to Revised Revenue Proposal](#), October 2025, p 1.

Table 5 AER Supplementary Draft Decision – Capital expenditure (\$2023, million)

Cost category	MLPL revised proposal July 2025	MLPL updated revised proposal October 2025	AER Supplementary Draft Decision
Converter Station Design and Equipment Supply	773.2	776.7	776.7
HVDC Cable System – Submarine and Land Cables	918.9	908.6	908.6
Balance of Works	945.8	909.1	909.1
Risk Allowance	363.0	361.5	198.7
Support Activities	524.0	539.3	523.8
Total capex	3,524.9	3,495.3	3,316.9

Source: AER analysis; MLPL, Attachment 1: Update to revised revenue proposal stage 1 – part B (Construction), October 2025, p. 1.

2.3.1 Our capex assessment approach

In making our Supplementary Draft Decision, we have determined capex for each year of the regulatory control period that we consider is reasonably required. In assessing capex, we must assess whether the business’s proposed capex reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors.⁴¹

In undertaking our assessment, we had regard to the AER’s Expenditure Forecast Assessment Guideline for Electricity Transmission and the AER’s Guidance Note for Regulation of Actionable ISP projects.⁴² This guidance sets out how we will approach our regulatory assessment for electricity transmission proposals and actionable ISP projects. On the latter, and relevant for this Supplementary Draft Decision, it also sets out our expectations on what TNSPs should demonstrate to aid our assessment of project risks and cost estimates.

Our assessment has also included MLPL’s revised proposal and updates, the range of supporting documents and models MLPL provided supporting its proposal and its responses to our requests for information.

We also engaged Energy Market Consulting associates (EMCa) to review the prudence and efficiency of MLPL’s proposed risk allowance.⁴³ We refer to EMCa’s advice where relevant.

⁴¹ NER, cl. 6A.6.7(c).

⁴² AER, [Expenditure forecast assessment guideline for electricity transmission](#), October 2024; AER, [Guidance note: Regulation of actionable ISP projects](#), March 2021.

⁴³ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025.

2.3.2 Stakeholder submissions

We received 2 submissions that directly commented on MLPL’s proposed capital expenditure.

The EUAA submitted:⁴⁴

- the AER should only be assessing market tested costs (AACE Class 2) and that this level of certainty and proponent rigor should be the standard in all future assessments.
- that Cable 2 not be a contingent project as there is significant doubt over its viability. If it proceeds it should be funded by connecting generators, who are the beneficiaries, not consumers.

Hydro Tasmania submitted:⁴⁵

- that as AEMO’s current ISP includes Stage 2 of Marinus Link in all scenarios, only the timing of its development varies, MLPL’s Cable 2 enabling works are prudent and efficient and will result in better cost outcomes for consumers given the cost would be materially higher if done later.
- approval of these costs provides a foundation for timely and coordinated infrastructure delivery and broader project enablement in both Tasmania and Victoria. It considered this approach supports investor confidence and enables better planning across jurisdictions.

2.3.3 Balance of works

The balance of works scope of work includes:⁴⁶

- the detailed design, construction and installation of the balance of plant forming part of the converter stations and buildings, being the main converter interface transformers and the main converter valves, including supports
- the mechanical and electrical equipment and services
- delivery interface management between the balance of works, converter and cable packages; and
- the land cable civil works (including trenching works, horizontal directional drilling works and joint bays) and access roads.

MLPL’s proposal

MLPL’s October 2025 update to its revised proposal include forecast of \$909.1 million for its balance of works scope of work. MLPL’s forecast reflects the outcomes of its competitive tender process to secure a service provider to undertake this scope of work.⁴⁷

⁴⁴ EUAA, [Submission - 2025–30 Transmission Determination - Marinus Link](#), August 2025.

⁴⁵ Hydro Tasmania, [Submission on Marinus Link revised proposal 2025–30](#), November 2025.

⁴⁶ MLPL, [MLPL-B-005 Attachment 3 – Revised explanation of capital expenditure requirements – Balance of works](#), July 2025.

⁴⁷ MLPL selected a joint venture of DT Infrastructure and Samsung C&T Corporation (TasVic Greenlink).

Our Supplementary Draft Decision

The MLPL procurement processes have been conducted in several phases. We maintain our Initial Draft Decision position that we are satisfied the procurement processes have been conducted to a high standard, sustained competitive tension, and have been consistent with industry norms and with government procurement requirements.⁴⁸

On this basis, we consider MLPL's competitive process to secure a provider for its balance of works gives a level of confidence the programs have been procured and can be delivered at an efficient cost, given the specifications and requirements for Marinus Link. As a result, we include MLPL's proposed costs of \$909.1 million in our alternate capex forecast.

Our assessment

The AER was an observer for MLPL's tender process to secure a provider for its balance of works scope of work. As noted, we are satisfied the process was robust.

Within this scope of works, MLPL has proposed to undertake Stage 2 enablement works. These are the costs of trenching, drilling and conduit installation to enable installation of a second cable, following commissioning of Cable 1. MLPL propose to undertake these works as part of its Stage 1 works as its analysis shows there are efficiencies as crews and machinery are already on site.

As set out above, stakeholders have differing views as to whether these costs should be included in the Stage 1 works.

We note that AEMO's 2024 ISP included Project Marinus (both Stages 1 and 2) as an actionable project. In August 2025, AEMO published a feedback loop confirmation that Project Marinus remains on the optimal development path with a two-year delay for Stage 2. As such, we include the Stage 2 enablement works in our Supplementary Draft Decision given the likely efficiencies that are realised by concurrently undertaking them as part of Stage 1 works.

We note that AEMO is scheduled to publish its draft 2026 ISP in December 2025 which we will take into account for our Final Decision.

2.3.4 Risk allowance

The economic regulatory framework incentivises TNSPs to proactively identify and manage project risks ex-ante. As set out in our guidance note for the regulation of actionable ISP projects, we can accept a project risk allowance by assessing the residual risks identified by the TNSP, and the efficiency of the associated cost estimates (i.e. the consequential cost adjusted to reflect the likelihood of occurrence).⁴⁹ Residual risks are those that affect the cost of the project and cannot be efficiently transferred, avoided or mitigated by the TNSP.

⁴⁸ AER, [Initial Draft Decision - Marinus Link Stage 1, Part B \(Construction costs\) Transmission Determination 2025–30](#), May 2025, pp. 14–15.

⁴⁹ AER, [Guidance note: Regulation of actionable ISP projects](#), March 2021.

We expect TNSPs to comprehensively and transparently identify and assess the different project risks for which it is seeking a cost allowance. This aids us in determining efficient and prudent expenditure associated with an actionable ISP project.

It is important to note that we will not provide a project risk allowance that completely covers the eventuality of all consequential costs being incurred, as this assumes that each of these costs are guaranteed to eventuate and does not recognise their distribution or probability of occurrence. There are also project risks and efficiencies that lead to cost reductions, and these should be equally considered. Importantly, our determination is not intended to completely de-risk the project, as investment projects are inherently uncertain and financing arrangements account for this.

We also note that while it is important to proactively identify and manage project risks, it may not be efficient to fully identify and mitigate (or avoid or transfer) all project risks. It is efficient to accept some risks where the cost of mitigation measures exceeds the expected cost impact should the risk eventuate (taking into account the likelihood of this occurring).

MLPL's proposal

In July 2025, MLPL provided its revised proposal which included a forecast of \$363.0 million for risk allowance.⁵⁰ The proposal is based on the identification of 60 residual risks, with the top 30 risks comprising 90% of the proposed risk allowance.⁵¹

In October 2025, MLPL provided an update on its revised proposal which include an updated forecast of \$361.5 million for risk allowance (a reduction of \$1.5 million).⁵² The difference is based on the close out of 1 risk, updates to probability and consequence of 3 risks and reassessment of 27 risks based on updated balance of work contract pricing. Overall, the risk allowance accounts for approximately 10% of MLPL's proposed total capex.

MLPL engaged E3 Advisory Pty Ltd (E3 Advisory) to assist in determining its risk allowance. As summarised by our consultant, EMCa, the approach included:⁵³

- Risk identification and qualitative assessment, comprising:
 - risk identification process including interdisciplinary risk workshops, meetings and risk reviews
 - risk ratings in collaboration with subject matter experts (SMEs) as part of structured workshops
 - as part of the risk assessment process, existing controls were identified and documented during risk workshops with the input of relevant SMEs
- Quantitative risk assessment, comprising

⁵⁰ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 49.

⁵¹ In November 2024, MLPL submitted an initial Risk & Contingency Report with an indicative risk allowance of \$465 million based on 40 residual risks. The revised proposal increased the number of risks to 60 based on further analysis.

⁵² MLPL, [Attachment 1 - Marinus Link Update to Revised Revenue Proposal](#), October 2025, pp 15–17.

⁵³ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp 13.

- quantitative risk modelling has been undertaken following the identification and assessment of risks and controls
 - for each risk, the best case, worst case and most likely case have been developed, collectively referred to as a ‘three-point estimate’ of the impact. Also, MLPL generated a risk-adjusted estimate based on the three-point estimate of the impacts and the probability of occurrence
 - a detailed cost basis that provides the foundation for the estimation of each risk’s best case, most likely case, and worst-case outcomes
- Monte Carlo simulation undertaken using a ‘bottom-up’ assessment of the individual risks using specialist software to determine a P50 value, and
 - Risk Model (risk register) developed as an output to the risk identification, qualitative and quantitative risk analysis process.

MLPL also engaged Aurecon Advisory (Aurecon) to undertake a desktop review of its approach. Aurecon concluded that MLPL’s approach to identify and calculate risks was appropriate and the total proposed costs (\$363 million, or 10%) were within the benchmark range of total costs for other international subsea HVDC interconnectors and the AER’s determination for Transgrid’s HumeLink.⁵⁴ Aurecon’s analysis showed a range of between 3% to 12%, with an average of 8.8%. Excluding those at the lower end, it noted most reference projects had an aggregated risk allowance between 9% to 12%.⁵⁵

Our Supplementary Draft Decision

Our Supplementary Draft Decision includes an alternate estimate of \$198.7 million (\$2023) for risk allowance compared to MLPL’s forecast of \$361.5 million, as per its October 2025 revised proposal update.⁵⁶ This is a reduction of \$162.8 million or approximately 45%.

We consider MLPL has not sufficiently justified or supported that all of its proposed risk allowance is prudent and efficient. Based on the information before us, our overall assessment of MLPL’s methodology and individual risks is that there is a level of uncertainty with many risks and cost estimates, and that the risk cost estimates tended to be upwardly biased.

This was further evidenced by the review undertaken by our consultant, EMCa, who noted that based on the information it assessed, many risks had risk cost allowances that were high, and had assumed significant overall project impacts that did not take adequate account of the controls available to MLPL or to the probability assigned to that risk.⁵⁷ We have considered and accepted the advice of EMCa in making our Supplementary Draft Decision, noting that EMCa were engaged to provide us with expert advice. There is an opportunity for

⁵⁴ MLPL, [MLPL-B-011 Attachment 9 – Updated Independent Verification of MLPL costs \(Aurecon Advisory\)](#), October 2025, pp 120–125.

⁵⁵ MLPL, [MLPL-B-011 Attachment 9 – Updated Independent Verification of MLPL costs \(Aurecon Advisory\)](#), October 2025, pp 120–125.

⁵⁶ MLPL, [Attachment 1 - Marinus Link Update to Revised Revenue Proposal](#), October 2025, p 1.

⁵⁷ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 21.

MLPL to provide further evidence and justification in how it has determined risk costs which we have not accepted at the Supplementary Draft Decision before the Final Decision.

We also consider there are instances where risk and costs should not be included as MLPL has not appropriately considered where risks are within the reasonable control of MLPL, accounted for by MLPL in other proposed expenditure categories, within contracts, covered by insurance or recoverable from a third party.

However, in many instances we consider that MLPL's identified risks and the proposed risk costs are reasonable. We are satisfied these risks are beyond reasonable control by MLPL, not already covered in MLPL's business as usual practices or contracts, not covered by insurance or recoverable from a third party.

We note that Appendix B of EMCa's report sets out its assessment against each of the top 30 risks.⁵⁸ We encourage MLPL to consider this assessment, in particular for those risks where further information may be required, in any response to our Supplementary Draft Decision.

Our assessment

In accordance with our guidance note, we consider that actionable ISP projects can include specific provisions for risk costs in the forecast capex for asymmetric risks, provided there is sufficient justification that meets the expectations of our guidance note.⁵⁹

As noted above, one of the key concerns through our review is that MLPL has not provided sufficient justification that meets the expectations of our guidance note. As such, we have not approved all of MLPL's proposed risk allowance. In coming to this conclusion, our review has undertaken both a top-down and bottom-up review of MLPL's proposed risks and their costs.

To assist us with this task, we engaged EMCa to undertake an independent review of MLPL's proposed risk allowance.⁶⁰ We have considered and accepted the advice of EMCa in making our Supplementary Draft Decision. We note EMCa's review was based on the timing for publishing a Supplementary Draft Decision in early October 2025. Therefore, its review largely preceded the updated information submitted by MLPL in October 2025. However, EMCa has subsequently reviewed MLPL's October updated information and considered that it did not change the substance of its advice.⁶¹

To assess MLPL's proposed risk allowance, along with EMCa, we have reviewed the information submitted by MLPL and provided to us through information requests. We also met with MLPL in-person to discuss and understand key aspects of their approach to developing their proposed risk allowance.

⁵⁸ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, Appendix B.

⁵⁹ AER, [Guidance note: Regulation of actionable ISP projects](#), March 2021, pp. 16–22.

⁶⁰ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025.

⁶¹ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp 42–43.

Top-down assessment

In terms of a top-down assessment, we consider MLPL's proposed risk allowance of 10% of total capex could be considered reasonable when compared to similar type transmission projects. As noted by Aurecon, our decision for Transgrid's HumeLink included a risk allowance that equates to approximately 9.6% of Stage 2 total capex.

Our assessment is supported by our consultant EMCa who undertook a similar benchmark assessment to that of Aurecon, including with reference to similar international benchmark projects.⁶² EMCa's assessment indicated a similar, but slightly different, range to Aurecon's of between 3.0% to 10.5%, with an average of 8%.

EMCa's assessment also benchmarked the risk allowance based on AER determinations for contingent projects in Australia which indicated an average risk allowance of approximately 5%.⁶³ However, we note this analysis included the AER's determination for Eyre Peninsula which is considerably different in terms of scope and scale to that of Marinus Link.

We observe that EMCa acknowledged the comparators considered by it and Aurecon did not reflect the specific circumstances of Marinus Link.⁶⁴ However, EMCa concluded that both assessments indicate that a risk allowance in a range between 5% to 10% is likely to be reasonable, with Marinus Link at the top of this range.

While we agree that the top-down assessment may indicate the Marinus Link's risk allowance could be considered reasonable, our bottom-up assessment indicated that the proposed risk allowance, overall, is likely overestimated.

Issues with MLPL's methodology for determining risk costs

We consider MLPL's methodology generally reasonable. However, there are aspects of the methodology that we consider have not been sufficiently justified or supported in order to determine that MLPL's proposed risk allowance is prudent and efficient. In particular, we consider:

- there is a lack of evidence and artefacts to support some of MLPL's claims,
- MLPL's risk cost estimates tended to have an upward bias.

As set out in our guidance note, we expect TNSPs to provide well supported risk allowance proposals that clearly demonstrate the identification of risks and the efficiency of the associated cost estimates.⁶⁵ However, we consider that MLPL have not achieved this

⁶² EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp. 22–23.

⁶³ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 23.

⁶⁴ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 23.

⁶⁵ AER, *Guidance note: Regulation of actionable ISP projects*, March 2021.

expectation for many of its risks. This is supported by EMCa's assessment which noted the lack of evidence and artefacts to support MLPL's proposal was the key issue in its review.⁶⁶

We observe that although MLPL was requested to provide the evidence and artefacts it relied upon from contract documents (e.g. assumed delay rates), quotations and estimates from third parties and internal business case documents as the basis for included costs and assigned probabilities in deriving the allowances, these were not provided.⁶⁷ EMCa also noted that MLPL only provided it with the cost basis information in its risk model which was the product of MLPL's workshop discussions and SME input.

Through an information request, we subsequently asked MLPL to provide the additional evidence and artefacts it relied upon in determining the consequence costs and assigned probabilities and likelihood underpinning each risk allowance or to confirm that no such additional information has been relied upon.⁶⁸ However, MLPL did not provide this detailed level of supporting information or confirmation. This was supported by EMCa who noted that while MLPL had listed the information that the SME's had regard to in providing their input, the detailed information itself was never provided.⁶⁹

We agree with EMCa and MLPL that it is prudent to rely on a range of information, including the experience of SMEs, to identify risks and establish the efficiency of the associated cost estimates. However, the NER and our guidance require TNSPs to provide the relevant evidence to support the assumptions relied upon to develop the risk allowance. Without this evidence, we are unable to confirm whether the identified risks and their proposed costs are prudent and efficient.

In addition, we also consider the risk cost estimates tended to have an upward bias. We observe that EMCa demonstrated this by plotting the three-point risk estimated for the top 30 risks which showed that⁷⁰:

- all three point-estimates result in positive risk costs,
- the estimates are not symmetrical, with a skew towards the worst-case value, and
- the P50 approximation based on the aggregate of the BetaPert and Uniform distributions used in the assessment is higher than the most likely value.

While EMCa acknowledged its analysis did not account for the Monte-Carlo analysis, it highlights the upward bias in risk costs.

As further indication of this potential upward bias in risk costs, EMCa considered the range of three-point estimates included in MLPL's risk model as shown in Table 6. The data indicated

⁶⁶ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 17.

⁶⁷ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 17.

⁶⁸ AER, *Marinus Link – Information request #009 – Onsite meeting followup risk allowance – 20250905 – CONFIDENTIAL*, 5 September 2025.

⁶⁹ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 17.

⁷⁰ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, September 2025, pp 18–19.

the best-case impact estimate, being the most optimistic case, indicates the project would incur an additional cost of \$169 million. Based on this assessment, EMCa formed the view that the identified risks on a probabilistic basis are more likely to add cost to the base case estimate for the project, even for the best-case scenario.⁷¹

Table 6 EMCa’s Summary of three-point estimates and P50 approximation of risk allowance, \$m nominal

	Best Case Impact	Most Likely Impact	Worst Case Impact	P50 approximation
Sum of individual risk costs	941	1,834	3,794	-
Sum of probability weighted individual risk costs	169	407	895	449

Source: EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 19.

We consider this tendency for the risk cost estimates to be upwardly bias supports a view that MLPL’s risk allowance overall is overestimated.

We also consider MLPL’s consideration of time delays in developing its risk allowance has not fully accounted for its own ability to control risks, or other controls in place, and where overlapping risks have not been appropriately accounted for. While the risks by themselves may seem reasonable, the consequences are overestimated when considered as part of all MLPL’s risk controls.

This view is supported by EMCa which noted that MLPL’s cost estimates for many risks were based on the delay to the contractor. However, in determining the cost exposure, EMCa noted that the estimate should take into account other risk controls and recovery methods available to MLPL to reduce the cost exposure, and which it considered MLPL had not done sufficiently in all cases.⁷² As a result, EMCa concluded the delay-based risk cost estimates are likely to overestimate the likely impact of these risks.

We note it is fundamental to risk analysis to consider the combination of the likelihood of the risk occurring and the consequence cost assumed for alignment (i.e. internal consistency). However, we consider overall that MLPL’s methodology has overestimated its costs relative to the likelihood of the risk occurring. We note this was evidenced in EMCa’s review who considered that:⁷³

...the consequence cost assumed by MLPL was relatively high, exceeding a reasonable level when considered in conjunction with the relatively high

⁷¹ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 20.

⁷² EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 20.

⁷³ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 21.

likelihood that MLPL ascribed to the risk manifesting. This results in a higher level of proposed risk cost from MLPL's modelling than is prudent.

Assessment of MLPL's specific risk cost allowances

Consistent with our approach for Transgrid's HumeLink, our assessment has included an assessment of the specific risks and the costs proposed by MLPL. Our review has focussed on the top 30 risks identified by MLPL given they make up 90% of the total risk allowance. In addition, EMCa through its review has undertaken a targeted review of the remaining lower value risks.

While we consider many of the risks and their costs are prudent and efficient, based on our own and EMCa's analysis, many others are not either wholly or partly justified, overstate the likelihood and/or cost impacts and where costs are upwardly biased. There is also evidence that MLPL has not taken sufficient account of interdependencies in its modelling approach, and its ability to mitigate the identified risk and limit the cost exposure it expects to incur.⁷⁴

For the risk categories MLPL proposed, our Supplementary Draft Decision is as follows:

- We consider the risks identified for Compliance and Legal and the costs proposed are prudent and efficient. We consider the risks are beyond the control of MLPL and the risk cost is reasonably estimated.
- We consider some of the risks identified for Environmental either are within MLPL's control, overstate the costs and/or the costs are either not fully or in part justified. As noted by EMCa, should there be any residual risk, the costs should be much lower than those proposed by MLPL.⁷⁵
- We consider the costs for the Health and Safety risks are overstated. As noted by EMCa, MLPL has assumed the worst-case conditions which overestimates the costs given the probability of the risks.⁷⁶
- We consider for Procurement and Commercial
 - many of the identified risks are prudent and proposed costs are efficient. For example, we note EMCa's assessment highlighted that the 'Missed cable manufacturing slots' risk is reasonable.⁷⁷ It noted MLPL had included appropriate reference projects for this risk, assigned a reasonable probability to the risk event and provided appropriate support for the risk allowance based on the impact to the project and critical path.

⁷⁴ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 30.

⁷⁵ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp 36–37.

⁷⁶ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 38.

⁷⁷ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, p 34.

- other risks, however, have not fully considered MLPL’s and/or contracts ability to mitigate the costs and/or the costs are already covered in the costs for Supporting Activities.⁷⁸
- We consider for Project Delivery⁷⁹
 - some of the identified risks are prudent and proposed costs are efficient. We observe EMCa’s independent assessment is that the probability of occurrence was aligned to the consequences and not within MLPL’s control, and the costs reasonably derived.⁸⁰
 - other risks, however, have underestimated MLPL’s and/or contracts ability to mitigate the costs, duplication or overlap of risks, inconsistency between qualitative and quantitative likelihood and probability assignment and/or biased toward overstating the probability of occurrence for the consequence scenarios.⁸¹
- We consider some of the risks for Technical / Design / Commissioning are prudent and the associated costs efficient. However, for other risks the costs are overestimated and/or within the reasonable control of MLPL. On the latter risks, EMCa considered that the cost allowances should not be included in the risk allowance and passed onto customers.⁸²

Based on our overall assessment of MLPL’s methodology and individual risks, our Supplementary Draft Decision has applied an alternative estimate of \$198.7 million compared to MLPL’s forecast of \$361.5 million.

2.3.5 Support activities

Support activities are the other activities MLPL will undertake to support the delivery of Marinus Link. These activities include the following:

- Landholder and community engagement programs;
- Land and easement acquisition and management;
- Environmental impact assessment and management;
- Technical designs and specifications;
- Procurement strategy and execution;
- Program and project management;
- Corporate costs and support; and

⁷⁸ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp 30–31.

⁷⁹ Given the commercial sensitivities regarding the risk costs, we have not provided specific examples.

⁸⁰ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp 30–31.

⁸¹ EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp 30–31

⁸² EMCa, *Marinus Link project: Assessment of proposed risk allowance expenditure for Stage 1*, October 2025, pp 35–36.

- Insurance.

MLPL's proposal

MLPL proposed \$539.3 million for supporting activities and integrated delivery partner (IDP) costs. The amount is intended to assist in delivering the three work packages and manage associated risks.

Our Supplementary Draft Decision

Our Supplementary Draft Decision includes an alternate estimate of \$523.8 million for supporting activities, which is \$15.5 million (3%) lower than MLPL's forecast of \$539.3 million.

In our alternate forecast, we exclude expenditure for roles that we consider MLPL have not sufficiently justified and consequently are overestimated.

We consider our alternate forecast to be prudent and efficient, for MLPL to deliver Marinus Link and still offer competitive salaries for its recruitment, which was a one of its concerns.

Our assessment

As part of our assessment, we requested MLPL provide information about how the staffing levels and expenditure was determined for internal roles and asked for a copy of its agreement with its IDP partner, Jacobs. In assessing this information, we examined how MLPL's proposal performed on a top-level and conducted bottom-up analysis.

In our top-down analysis we reviewed the possibility of benchmarking. But like our top-down assessment for risk allowance, we consider there is no Australian comparators that reflect MLPL's specific circumstances. As such, we focused on a bottom-up review.

In examining internal roles, we were not persuaded that certain positions were required and consequently are overestimated. These include stakeholder engagement roles that fell under corporate costs and support, that were focused on specific types of engagement that were in addition to more general stakeholder and communication roles. We also identified duplicate roles and positions that when considering the scope of the work required, in our assessment the roles are not commensurate to the business's needs.

After examining advertised roles for corporate positions across different recruitment sources, we also found MLPL's proposed expenditure were higher than our research indicated. However, in making our adjustments for our Supplementary Draft Decision we have considered the labour market area specific to MLPL and the challenges in recruiting on a part time basis. For example:

- For proposed specific awards and benefits related expenditure, we did not find this to be prudent when considering the salaries and other benefits that would already be provided.
- For additional performance-based awards, we consider future awards should be provided for when revenue has been established.

For the other categories under supporting activities, particularly Program and project management, we consider MLPL's proposed costs to be relatively in line with our own

forecasts, noting MLPL had made significant reductions to its internal labour from its initial proposal.

For expenditure under Landowner and community engagement programs and additional expenditure that would fall under social licence, we consider the proposed amount to be prudent and efficient after reviewing the minutes from stakeholder engagement and assessing its business case against the framework we have set out in our Directions Paper for Social licence for electricity transmission projects.⁸³

⁸³ AER, [Directions paper – Social licence for electricity transmission projects](#), October 2023.

3 Incentive schemes

Incentive schemes form an important part of our regulatory toolkit. They provide financial rewards and penalties to network service providers and complement our approach to assessing costs. They encourage businesses to pursue expenditure efficiencies while still maintaining the reliability and overall performance of their networks.

As MLPL’s proposal only covers capital expenditure, only the Capital Expenditure Sharing Scheme (CESS) is relevant. We will consider applying the efficiency benefit sharing scheme (EBSS) and the service target performance incentive scheme (STPIS) as part of our assessment of MLPL’s full revenue proposal that will be submitted in 2029.

3.1.1 Our capital expenditure sharing scheme (CESS) assessment approach

The CESS provides financial rewards for network service providers whose actual capital expenditure (capex) is less than forecast and financial penalties for those whose actual capital is more than forecast. In doing this, the CESS aims to incentivise network service providers to become more efficient over time. Consumers benefit through lower regulated prices. The CESS shares any gains or losses due to underspending or overspending capex relative to the forecast between service providers and consumers.

Our standard approach is to include a CESS that shares underspends or overspends between a service provider and its customers at a ratio of 30:70. That is service providers keep 30% of the value of any underspending relative to forecast (or bear 30% of the value of any overspending relative to forecast) while customers keep 70% of the gains (or wear 70% of the losses).

In our most recent CESS Guidelines from May 2025,⁸⁴ we noted that we would consider modified CESS arrangements for large transmission projects, though the default position would be to apply the standard approach. When deciding whether to include a modified CESS, the AER would take into account:

- the service provider’s CESS and capital expenditure proposals
- benefits to consumers from the exemption
- the size of the project
- the degree of capital expenditure forecasting risk
- stakeholder views.

MLPL’s proposal

MLPL initially proposed a modified CESS with a 5:95 sharing ratio. Our Initial Draft Decision did not accept the proposal, and instead adopted the approach used for HumeLink. The HumeLink approach adopted a tiered sharing ratio, 30:70 for over and under spends of up to 10% and then the financing benefit or cost, based on the cost of capital, for over and under

⁸⁴ AER, [Capital Expenditure Incentive Guidelines](#), May 2025.

spends of 10% or more. At the time of our HumeLink decision the financing benefit or cost, based on the cost of capital, gave a sharing ratio of approximately 10:90.

In response to our Initial Draft Decision MLPL commissioned Incenta to review the CESS and changed its proposal. MLPL's revised proposal is a 10:90 sharing ratio for over and under spends of up to 10% and then a 0:100 sharing ratio for over and underspends of 10% or more.

After careful consideration of MLPL's proposal and submissions, we have revised our approach.

Our Supplementary Draft Decision

Our Supplementary Draft Decision applies a 30:70 CESS sharing ratio up to a 10% over or under spend and then an incremental 10:90 sharing ratio.

The Supplementary Draft Decision provides high powered incentives for smaller expenditure variations, consistent with our HumeLink decision and Initial Draft Decision.

The tiered approach adopted protects MLPL from large penalties for large overspends while still imposing material incremental penalties for all levels of overspend. It balances financeability concerns with the desire for sufficient incentives by retaining meaningful cost containment incentives for over (and under) spends above 10%. The resulting incentive rewards/penalties are similar to those adopted for HumeLink.

In our Initial Draft Decision, we set the sharing ratio for over and under spends in excess of 10% at the financing cost or benefit from the cost of capital to the network service provider. However, after considering stakeholder submissions, we have adopted a fixed 10:90 sharing ratio for over and under spends in excess of 10% of forecast. The revision provides more transparency and certainty about the sharing ratio and is consistent with the modified CESS approach in the HumeLink decision.

Our assessment

We have assessed MLPL's revised proposal against the criteria in the CESS guidelines, focusing on:

- The incentive properties of the option, that is, how effective the option is likely to be in incentivising cost containment effort by the TNSP.
- Financeability, that is whether the option is consistent with the principle of providing a reasonable opportunity to recover efficient costs (including financing costs) incurred in providing network services (including, as here, costs to construct network infrastructure).⁸⁵ Significant cost over-runs may compromise a TNSP's returns or put the project, or even the business, at risk.

⁸⁵ This 'revenue and pricing principle' is set out in s 7A(2) of the NEL. We are required to have regard to this principle (and other revenue and pricing principles) when exercising a discretion in making those parts of a transmission determination that relate to network services: NEL, s 16(2)(a).

- Implementation, which covers stability in approach over time and simplicity, that is how easy the option is for stakeholders to understand, predict and administer.

Incentive properties

MLPL’s revised proposal argued that the financial viability of MLPL could be compromised if we adopted the HumeLink approach proposed in our Initial Draft Decision and costs end up being significantly higher than forecast. However, MLPL revised its proposed sharing ratio upwards for expenditure variations of up to 10% in light of the concerns we expressed in our Initial Draft Decision.

Compared to our standard 30:70 CESS sharing ratio, MLPL’s revised proposal remains low powered.

The impact of MLPL’s proposals are set out in Table 7 along with the other CESS options that we considered. Table 7 shows the financial impact of overspends as a percentage of total project costs. As already noted, the revenue at risk with MLPL’s proposal is low. For example, if MLPL overspends by 30%, the CESS penalty is only 1% with the revised capped 10:90 proposal. Consumers would pay for most of the increase in costs (97% of the cost increase).

We received 3 submissions on the CESS, from the EUAA, and MLPL CAP members Mr John Pauley and Professor Richard Eccleston. All 3 submissions support a higher sharing than the 5:95 initially proposed by MLPL, with a preference to maintain a 30:70 sharing ratio for all overspends and underspends.

Our Supplementary Draft Decision sets higher powered incentives than proposed by MLPL and, in retaining the 30:70 sharing ratio for expenditure variations of less than 10% of forecast, is also consistent with stakeholder submissions. We retain our view that MLPL’s proposal is too low powered to induce sufficient cost containment effort, particularly above or below the 10% over or under spend mark.

Table 7 Total financial impact of overspends (% of total project costs)*

Over spend amount (%)	5:95 (MLPL initial proposal)	10:90 capped at 10% (MLPL revised proposal)	HumeLink methodology based approach	Supplementary Draft Decision (tiered 30:70 up to 10% and then incremental 10:90)	30:70 (% of project costs)
5	0.25	0.5	1.5	1.5	1.5
10	0.5	1	3	3	3
20	1	1	3.6	4	6
30	1.5	1	4.2	5	9

Incenta argue that the prospect of ex-post reviews undertaken by the AER should incentivise efficiency. The idea is that an ex-post review could identify shortcomings that contributed to cost over-runs, such as poor procurement processes, and allow ex-post adjustments to revenue to be made. Consistent with our CESS guidelines, we consider that ex-post reviews are a poor substitute for effective incentive schemes. In practice it is difficult to identify all of the relevant issues after the event, and in particular the day-to-day management of projects and contractors that is so important to contain costs. Further, the prospect of ex-post reviews leave uncertainty about financial outcomes for investors.

Financeability and potential project viability

Financeability risks for MLPL are likely to be higher than usual because:

- The risk of forecasting error is high as forecasting for large greenfield projects is inherently more difficult than recurrent capex.
- Transmission and distribution networks normally have a ‘portfolio’ of projects which reduces the impact of forecast error for any one of those projects. As a single asset business MLPL does not have such diversification opportunities.
- More factors may be beyond the control of the TNSP for large complex projects than routine ones.

For these reasons, and the resultant implications for equity returns and project viability, we did not adopt our standard 30:70 sharing ratio for our Initial Draft Decision. MLPL is an extreme example of a lack of portfolio diversification opportunity because it has just the one project and will not have offsetting spend variability on other projects.

The CESS penalty with our standard 30:70 approach would be 9% of project costs with a 30% cost over-run (see Table 7). This would substantially reduce returns on the project and could compromise its viability.

The impact of the approach adopted in the Supplementary Draft Decision falls somewhere in-between MLPL’s proposals and our standard approach with a CESS penalty of 5% of total project costs in the event of a 30% overspend (see Table 7). The indicative rewards or penalties of our Supplementary Draft Decision based on our alternative forecast capital expenditure estimate of \$3,316.9 million (\$2023) are shown in Table 8.

Table 8 Total financial impact of overspends (\$2023 million)

Over spend amount (%)	Overspend amount (\$2023 million)	MLPL portion (\$2023 million)	Consumer portion (\$2023 million)
5	165.8	49.8	116.1
10	331.7	99.5	232.2
20	663.4	132.7	530.7

Over spend amount (%)	Overspend amount (\$2023 million)	MLPL portion (\$2023 million)	Consumer portion (\$2023 million)
30	995.1	165.8	829.2

We consider our approach provides an appropriate balance between providing sufficient incentives for efficiency and meeting financeability objectives. Our judgement is that the financial impact of this approach is manageable given that expenditure variations are likely to be relatively small, and:

- The pass-through provisions included in our Supplementary Draft Decision allow MLPL to recover costs associated with a wide range of factors outside MLPL’s control.
- Inclusion of risk allowances in the capex forecast gives MLPL a forecasting error ‘buffer’.
- MLPL has undertaken positive measures to reduce forecasting error, including by tendering most of the work and providing incentives to suppliers to limit cost increases.

Implementation

The HumeLink approach proposed in our Initial Draft Decision also provides an appropriate balance between providing sufficient incentives and meeting financeability objectives. However, as noted by Mr John Pauley, using a sharing ratio based on cost of capital for over or underspends above 10% (as per our HumeLink approach) limits transparency and certainty because the cost of capital varies and therefore the sharing ratio is not known until the regulatory period is complete.

The Supplementary Draft Decision adopts the tiered approach used in HumeLink but modifies it to adopt a fixed sharing ratio of 10:90 for over (or under) spends in excess of 10%. This is consistent with the sharing ratio estimated for HumeLink and the efficiency incentives imposed on Transgrid with that decision, while providing additional transparency and certainty.

The resulting CESS sharing ratio is slightly higher than the Initial Draft Decision for large overspends. For example, the total financial impact of a 30% overspend on MLPL would be 5% rather than 4.2% (see Table 7) due the slightly higher incremental sharing ratio beyond a 10% over or under spend. However, we consider the resulting CESS still provides a good balance between incentives and protecting MLPL’s financial viability.

4 Pass through events

During the regulatory control period MLPL can apply to pass through to its customers, in the form of higher or lower network charges, certain material changes in its efficient costs caused by pre-defined exogenous events. These events are called cost pass through events. Such events are limited to circumstances where the business can recover potential costs of defined yet unpredictable high-cost events that are outside the control of the business.

The NER prescribe the following pass through events for all transmission determinations:⁸⁶

- a regulatory change event
- a service standard event
- a tax change event
- an insurance event
- an inertia shortfall event

In addition to these prescribed events, other pass through events may be 'nominated' by a service provider for a regulatory control period.⁸⁷

This section sets out our Supplementary Draft Decision on the nominated pass through events to apply to MLPL for the 2025–30 regulatory control period (2025–30 period).

4.1.1 Our pass through assessment approach

The NER set out how we must assess nominated pass through events, and how we must assess an application from a service provider to pass through changes in costs where an event occurs.⁸⁸

Our assessment approach is guided by the National Electricity Objective (NEO)⁸⁹ and the Revenue and Pricing Principles (RPPs).⁹⁰ The RPPs include that the service provider should have a reasonable opportunity to recover at least the efficient costs of providing services and complying with regulatory obligations.⁹¹ The NEO and the RPPs also reflect the importance of incentives to promote economic efficiency,⁹² and balance the risks of under and over investment.⁹³

In determining whether we accept a nominated pass through event, we must take into account the 'nominated pass through event considerations' which are as follows:⁹⁴

⁸⁶ NER, cl. 6A.7.3(a1)(1)–(4) and (6).

⁸⁷ NER, cl. 6A.7.3(a1)(5).

⁸⁸ NER, cl. 6A.6.9(b), 6A.7.3.

⁸⁹ The NEO is defined in s. 7 of the NEL.

⁹⁰ The revenue and pricing principles are set out in s. 7A of the NEL.

⁹¹ NEL, s. 7A(2).

⁹² NEL, s. 7A(3).

⁹³ NEL, s. 7A(6).

⁹⁴ NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations'.

- a) whether the event proposed is an event covered by a category of pass through event specified in clause 6.6.1(a1)(1) to (4) (in the case of a distribution determination) or clause 6A.7.3(a1)(1) to (4) (in the case of a transmission determination);
- b) whether the nature or type of event can be clearly identified at the time the determination is made for the service provider;
- c) whether a prudent service provider could reasonably prevent an event of that nature or type from occurring or substantially mitigate the cost impact of such an event;
- d) whether the relevant service provider could insure against the event, having regard to:
 - 1) the availability (including the extent of availability in terms of liability limits) of insurance against the event on reasonable commercial terms; or
 - 2) whether the event can be self-insured on the basis that:
 - i) it is possible to calculate the self-insurance premium; and
 - ii) the potential cost to the relevant service provider would not have a significant impact on the service provider's ability to provide network services; and
- e) any other matter the AER considers relevant and which the AER has notified network service providers is a nominated pass through event consideration.

The AEMC described the purpose of the nominated pass through event considerations as:

...to incorporate and reflect the essential components of a cost pass through regime in the NER. It was intended that in order for appropriate incentives to be maintained, any nominated pass through event should only be accepted when event avoidance, mitigation, commercial insurance and self-insurance are unavailable.⁹⁵

...that a pass through event should only be accepted when it is the least inefficient option and event avoidance, mitigation, commercial insurance and self-insurance are found to be inappropriate. That is, it is included after ascertaining the most efficient allocation of risks between a service provider and end customers.⁹⁶

Limiting the use of pass through events to the circumstances described by the AEMC protects the incentive regime under the NER by limiting erosion of a service provider's incentives to use market based mechanisms to mitigate the cost impacts that would arise. This promotes the efficient investment in, and efficient operation and use of, network services for the long term interests of consumers with respect to price.⁹⁷

⁹⁵ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p 19.

⁹⁶ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p 20.

⁹⁷ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p 8.

As a matter of good regulatory practice, we also take into account the desirability of consistency in our approach to assessing nominated pass through events across our electricity determinations and gas access arrangements.⁹⁸

Interrelationships

The pass through mechanism is not the only way service providers can manage their risks under a distribution or transmission determination. It is interrelated with other parts of this Supplementary Draft Decision, in particular with the forecast capex and rate of return included in our revenue determination. We must specify and take account of these interrelationships.⁹⁹ This requires us to balance the incentives in the various parts of our Supplementary Draft Decision.

For systematic risks, service providers are compensated through the allowed rate of return. Service providers also face business-specific, or residual, risks. Service providers are compensated for the prudent and efficient management of these risks through the forecast operational expenditure (opex) and capex we include in our revenue determination for strategies such as:

- prevention (avoiding the risk)
- mitigation (reducing the probability and impact of the risk)
- insurance (transferring the risk to another party)
- self-insurance (putting aside funds to manage the likely costs associated with a risk event).

An efficient business will manage its risk by employing the most cost effective combination of these strategies. In order to maintain appropriate incentives under our determinations, we only accept nominated pass through events where we are satisfied that event avoidance, mitigation, commercial insurance and self-insurance under approved forecasts of prudent and efficient opex and capex are either unavailable or inappropriate.¹⁰⁰

In general, in respect of unforeseen costs that are relatively minor, a service provider should manage them by using up its existing expenditure allowance, or reprioritising or substituting its projects, to avoid seeking cost recovery through the pass through mechanisms.¹⁰¹ This is reflected in the materiality threshold that applies to cost pass through applications.¹⁰²

⁹⁸ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p 18.

⁹⁹ NEL, s. 16(1)(c).

¹⁰⁰ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, pp 19–20.

¹⁰¹ AEMC, *Economic Regulation of Network Service Providers, and Price and Revenue Regulation of Gas Services, Final Position Paper*, 29 November 2012, p 186.

¹⁰² NER, Chapter 10: Glossary, definition of 'materially'.

Cost pass through amounts approved in a regulatory control period are added to (or in the case of a negative pass through deducted from) forecast opex and capex for the purpose of calculating efficiency carryover amounts under the EBSS and CESS.¹⁰³

Any capex that has already been recovered in a regulatory control period by way of a cost pass through cannot be recovered again in the roll-forward of the RAB for the next regulatory control period.¹⁰⁴

MLPL's proposal

MLPL proposed eight nominated pass through events: Insurance coverage event, insurer credit risk event, natural disaster event, terrorism event, unavoidable contract variations event, contractor insolvency event, contractor force *majeure* event and biodiversity event.¹⁰⁵

Our Supplementary Draft Decision

Our Supplementary Draft Decision is to accept the insurance coverage event, insurer's credit risk event, natural disaster event and terrorism event proposed by MLPL.¹⁰⁶

MLPL also proposed a number of novel nominated pass through events that we have not accepted for any other Australian network service provider. We do not accept MLPL's proposed unavoidable contract variations event, contractor force *majeure* event, contractor insolvency event and biodiversity event. We do not consider that these events are appropriate to be accepted as nominated pass through events. MLPL's proposed event definitions and our accepted definitions for approved pass through events for this Supplementary Draft Decision are set out in Appendix A.¹⁰⁷

Our assessment

Insurance coverage, insurer's credit risk, natural disaster and terrorism events

We consider MLPL's proposed insurance coverage, insurer's credit risk, natural disaster, and terrorism pass through events are consistent with the nominated pass through event considerations set out in the NER:¹⁰⁸

- the proposed events are not covered by an existing category of pass through event
- the nature of the events are clearly identifiable at this time

¹⁰³ AER, *Efficiency benefit sharing scheme*, November 2013, p. 7; AER, *Capital Expenditure Incentive Guideline for Electricity Network Service Providers*, April 2023, p 3.

¹⁰⁴ NER, cl. S6.2.1(e)(1)(ii) and S6A.2.1(f)(1)(ii).

¹⁰⁵ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 68.

¹⁰⁶ This is one of the constituent decisions we must make under NER, cl. 6A.14.1(9). MLPL proposed to amend the standard wording of the insurance coverage, natural disaster and terrorism events to refer to changes in costs of constructing or commissioning Marinus Link.

¹⁰⁷ AER, *Supplementary Draft Decision – Marinus Link Stage 1, Part B (Construction costs) Transmission Determination 2025–30: Appendix A – Cost pass through definitions*, November 2025.

¹⁰⁸ NER, cl. 6A.6.9(b); NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations'.

- a prudent service provider could not reasonably prevent an event of that nature or type from occurring or substantially mitigate its cost impact and could not insure (or self-insure) against the events on reasonable commercial terms.

With regard to the latter point, while MLPL could take steps to reduce its risk exposure to these events, expenditure beyond a certain level aimed at completely eliminating the risk is likely to be imprudent or inefficient. In that context, sharing the risk between MLPL and consumers is appropriate and more likely to be in the long-term interests of consumers with respect to price.

We accept the event proposed by MLPL for the insurer's credit risk event as this is consistent with our recent determinations for other network service providers.¹⁰⁹ While the proposed insurance coverage, natural disaster and terrorism events are largely consistent with our standard wording,¹¹⁰ MLPL did not include our standard definition of the costs for these events in its proposal. MLPL proposed to define costs, to MLPL in constructing or commissioning Marinus Link.

We accept this proposed amendment to our standard wording as this reflects the circumstances of MLPL, where MLPL will be constructing and commissioning Marinus Link in the 2025–30 period.

Unavoidable contract variations event

MLPL proposed the event to recover costs due to a material contract variation relating to the construction of Marinus Link Stage 1 to accommodate a change in project design or proposed route that is beyond MLPL's control.

In our Initial Draft Decision, we raised concerns that this proposed pass through event may undermine incentives for MLPL to minimise costs. In response to our concern that the costs that are 'uncontrollable' are not well defined, MLPL refined the pass through event to capture costs related to a variation to a contract from change to project design and route selection. MLPL proposed that the cost of the unavoidable contract variations event may include, but is not limited to, the increase or decrease in the prudent and efficient costs of any civil or building works, environmental and planning approvals; and any plant, equipment, materials and labour costs; and delay costs. Despite MLPL's revised proposal to narrow the scope of the pass through event to a change in costs associated with the project design and route selection, we maintain the view that a change in project design and route is not well defined nor outside MLPL's control (e.g. expected project costs may inform changes to route selection that is within MLPL's control).

MLPL has not responded to our view that an allowance for early works has been provided to MLPL for the purposes of reducing project cost uncertainty. Specifically, early works is intended to provide more project cost certainty, including on project design and route selection. We also recognise that project design and route selection is impacted by planning and environmental approvals. The Victorian and Australian Government provided

¹⁰⁹ AER, [Draft Decision Attachment 13 - Pass through events – TasNetworks - 2024–29 Transmission revenue proposal](#), September 2023, pp 7–8.

¹¹⁰ AER, *Supplementary Draft Decision – Marinus Link Stage 1, Part B (Construction costs) Transmission Determination 2025–30: Appendix A – Cost pass through definitions*, November 2025, Table A.2.

environmental approval for Marinus Link in May and August 2025, respectively.¹¹¹ This means there should now be greater certainty on project design and route selection and therefore estimated costs. Given the stage of development of the project, we are not satisfied that the proposed pass through event will promote prudent and efficient delivery of the project.

MLPL considered that this pass through event is consistent with the revenue adjustment mechanism in the AER's Waratah Super Battery decision which had regard to the nominated pass through event considerations in chapter 6A of the NER.¹¹² We acknowledge that a contractor cost variation was included as a revenue adjustment mechanism for Waratah Super Battery for costs changes associated with final design of the construction work. However, the circumstances of the Waratah Super Battery project are not the same as Marinus Link. The Waratah Super Battery adjustment was provided on the basis that a preliminary design was only available at the time of our decision and a fixed contract would have required a premium to account for the design uncertainty. Noting that, at the time of our decision, Transgrid estimated that a design cost would be around \$30m lower than if a fixed contract was struck, we decided to provide an adjustment for a contract variation capped at \$30 million. We consider the same circumstances do not apply to Marinus Link as the project design is well progressed and construction contracts have been entered into.

On the basis that we consider that a prudent service provider could reasonably prevent an event of that nature or type from occurring or substantially mitigate its cost impact¹¹³, we consider that accepting this pass through event would be inconsistent with the nominated pass through event considerations under the NER. We therefore do not approve the inclusion of this proposed pass through event in the Supplementary Draft Decision.

Contractor force majeure event

MLPL's proposed contractor force *majeure* event is for a material change in construction costs incurred by MLPL due to an unforeseen force *majeure* event impacting the construction contractor, where:

- (i) the costs are not covered by an existing insurance policy or other pass-through event, and
- (ii) the force *majeure* event is declared in accordance with the terms of the relevant contract.

MLPL submitted that examples of the force *majeure* events that are covered by this event include unexploded munitions or ordinances at a construction site; and restrictions of access to a construction site directed by an Authority such that access to a construction site is prevented or made impossible.¹¹⁴

¹¹¹ The Victorian Minister assessment is available at: <https://www.planning.vic.gov.au/environmental-assessments/browse-projects/marinus-link>. The Commonwealth Environmental Protection and Biodiversity Conservation approval decision is available at: <https://epbcpublicportal.environment.gov.au/all-referrals/project-referral-summary/project-decision/?id=e39fca8b-7ef5-ee11-a1fe-00224811f48a>.

¹¹² MLPL, *MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B (Construction)*, July 2025.

¹¹³ NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations'.

¹¹⁴ MLPL, *MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B (Construction)*, July 2025, p 78.

We did not accept this proposed event in our Initial Draft Decision because we considered this event would be covered by a natural disaster event. In principle force *majeure* provisions in contractual arrangements are provided to recognise that in some circumstances an event may occur such that contractual obligations cannot be met.

MLPL submitted the details of the force *majeure* events contained in its construction contracts. MLPL submitted that the proposed contractor force *majeure* event is broader in terms of including events not covered by existing pass through events. On review of these events, we observe the proposed contractor force *majeure* event includes a range of events, where:

- some of the events are likely to be already covered by an existing category of pass through event,
- the nature of some of the events are not clearly identifiable; and
- some of these events are ones we would expect that a prudent service provider could reasonably prevent an event of that nature from occurring or substantially mitigate its cost impact.

Further, the impact of a force *majeure* event are matters that should already be contemplated and appropriately reflected in the commercial terms negotiated between MLPL and its contractors. The allocation of such risks is a contractual issue within MLPL's control, arising from the agreements it has entered into with its delivery partners. Accordingly, MLPL and its contractors are best placed to anticipate and manage the consequences of these events. For this reason, we do not propose to accept this nominated pass-through event, which, in substance, pertains to the terms of the relevant contractual arrangements.

On the basis of these considerations we determine that accepting this pass through event would be inconsistent with the nominated pass through event considerations under the NER. We therefore we do not approve the inclusion of this proposed pass through event in the Supplementary Draft Decision.

Contractor insolvency event

MLPL proposed a contractor insolvency event which occurs if a contractor is declared insolvent and as a result there is a material increase in MLPL's costs of constructing or commissioning Marinus Link.

MLPL proposed that the cost may include, but is not limited to, those arising from project delays; renegotiation of new contract terms; appointing an alternative contractor; and any increase in the costs of completing the project. MLPL also submitted that this pass through event does not propose to allow MLPL to recover payments to a contractor to avoid or mitigate the risk of insolvency.

MLPL also submitted that in assessing a contractor insolvency event, the AER have regard to, amongst other things:

- whether MLPL made reasonable enquires at the time of contracting with the relevant service provider to verify its financial capacity to meet its contractual obligations;
- whether MLPL obtained reasonable protections against insolvency, including appropriate financial guarantees and novation provisions;

- any action or omission on the part of MLPL that may have resulted in costs that are not prudent and efficient; and
- the prudence and efficiency of the costs claimed by MLPL.

We are not satisfied that the proposed contractor insolvency event is appropriate as MLPL has substantial control over the terms of the contract to mitigate the event or substantially mitigate the consequences of an insolvency event. Specifically, this risk can be managed more efficiently through contractual arrangements such as:

- ensuring due diligence in selecting the contractor, including a review of a contractor's audited financial statements, average annual turnover, cash flow and liquidity, credit reports and reputation,
- requiring a parent company to act as guarantor, where the guarantor is required to compensate MLPL for financial losses as a result of appointing a new contractor or requiring the parent company to complete the work,¹¹⁵
- require securities by a third party (e.g., a bank guarantee).

MLPL stated that it has developed bespoke contracts for the cable procurement and installation that includes performance requirements, guarantees and securities.¹¹⁶ This approach to contracting demonstrates that MLPL is best able to efficiently manage this risk as part of the terms of its construction contracts.

On the basis that we consider that a prudent service provider could reasonably prevent an event of that nature or type from occurring or substantially mitigate its cost impact¹¹⁷, we consider that accepting this pass through event would be inconsistent with the nominated pass through event considerations under the NER. We therefore not approve the inclusion of this proposed pass through event in the Supplementary Draft Decision.

Biodiversity event

MLPL proposed that a biodiversity event occurs if there is a change in MLPL's biodiversity obligations in relation to Marinus Link which results in a cost impact (positive or negative) to achieve compliance, where a change in MLPL's biodiversity obligations means:

- a decision by a planning authority which requires additional measures be taken to avoid and minimise biodiversity impacts (or to refuse an application based on those impacts), or increase or decrease the credit obligations identified by MLPL at the time of its revised Revenue Proposal,
- the decision by a planning authority¹¹⁸ excludes a decision which results from a legislative or regulatory change where that change falls within the definition of a regulatory change event.

¹¹⁵ We note Prysmian Powerlink has been engaged to complete the cable works and Hitachi Energy for the convertor station (these companies are subsidiaries of global parents). MLPL also states its bespoke cable contracts reflect a desired risk allocation, but no detail is provided on this allocation).

¹¹⁶ MLPL, [ML-B-002 MLPL Revenue Proposal Stage 1 - Part B \(Construction\)](#), December 2024.

¹¹⁷ NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations'.

¹¹⁸ In Victoria, the planning Authority includes shire councils.

MLPL submitted that the cost impact of the proposed pass through includes MLPL's prudent and efficient internal costs in responding to the change in MLPL's biodiversity obligations in addition to the direct costs of meeting those changed obligations. MLPL submitted that this pass through is required as the risk is uninsurable, beyond their control and the costs are material.¹¹⁹

We did not propose to accept this pass through event in our Initial Draft Decision on the basis that a change in biodiversity obligations should already be covered by a 'regulatory change' event.¹²⁰ In response, MLPL submitted that the principal purpose of the pass through provision is to address the costs of meeting the existing legislative and regulatory requirements, noting that the costs are substantially outside MLPL's control.¹²¹

MLPL stated its concern is that existing biodiversity requirements may be different to forecast and/or the cost of meeting those obligations are uncertain and beyond MLPL's control. MLPL submitted that specific uncontrollable/external risks that may lead to a biodiversity event occurring could include, for example:¹²²

- changes to the biodiversity offset methodology, assessment criteria and credit securing process (e.g., credit multipliers or habitat classification); and
- uncertainty in the application of the additional Environmental Impact Statement conditions that require biodiversity mitigations (e.g., the Victorian Planning Minister requiring assessment and consideration of biolinks not considered in the original assessment).

MLPL advised that biodiversity offsets are only required in relation to the Victorian component of the project. MLPL has included an estimate of the costs of meeting its expected biodiversity offset obligations in Victoria associated with vegetation removal and the impacts in coastal waters.¹²³

We expect that as the project is well progressed through the approvals process, the costs of MLPL's biodiversity offset obligations are likely to be estimated with a high degree of confidence.¹²⁴ MLPL has prepared an offsets strategy and has identified the quantity of offsets that are expected to be required for vegetation removal and likely marine offsets in accordance with existing obligations.¹²⁵ In addition, MLPL has adopted a worst case scenario in estimating its offset requirements for native vegetation removal (with the exception of one type of fauna). MLPL also advised that offsets are readily available for this worst case scenario.¹²⁶ MLPL has also included a risk allowance in its proposed capex to manage the

¹¹⁹ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025.

¹²⁰ AER, [Initial Draft Decision -Marinus Link Stage 1 Part B \(Construction costs\) Transmission Determination 2025–30](#), p 20.

¹²¹ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 83.

¹²² MLPL, [Response to IR#08 – Biodiversity Assessment and Costs \(Confidential\)](#), September 2025.

¹²³ MLPL, [Response to IR#08 – Biodiversity Assessment and Costs \(Confidential\)](#), September 2025.

¹²⁴ The Victorian Minister approved the Environmental Effects Statement in May 2025.

¹²⁵ MLPL, [Response to IR#08 – Biodiversity Assessment and Costs \(Confidential\)](#), September 2025.

¹²⁶ Marinus Link Environmental Impact Assessment and Environment Effects Statement is available at: <https://www.marinuslink.com.au/environmental-impact-statement-environment-effects-statement/>.

risk of changes in the price and quantity of existing biodiversity offset obligations.¹²⁷ MLPL submitted that the cost of meeting these existing obligations will be determined once the final project design and route is known. As MLPL has sought to manage this risk through a risk allowance in its capex and by adopting a worst case scenario estimate of the costs of its obligations, it is not appropriate nor necessary to include a pass through event for variations between forecast and actual biodiversity offset costs.

MLPL refers to the risks of changes to the biodiversity offset methodology, assessment criteria and credit securing process. However, understand that biodiversity offset obligations in Victoria are not likely to change after a planning permit is approved. In particular, biodiversity obligations are included in the planning permit conditions for the project and these obligations are legally binding.¹²⁸

MLPL also refers to uncertainties regarding the application of the conditions included in the Environmental Effects Statement to mitigate biodiversity impacts. These conditions include the requirement to develop a Biodiversity Management Plan (BMP) The BMP includes a commitment to maintain 'biolinks'¹²⁹, including through the reinstatement of trees and priority habitats where applicable.¹³⁰ While we consider there may be some uncertainty regarding the application of conditions in the Environmental Effects Statement, MLPL is also required to undertake further assessments (e.g., vegetation quality and habitat assessments) to inform the project's final design, which will reduce this uncertainty. Moreover, MLPL again has included a risk allowance in its capex proposal to manage the risk that MLPL receives more onerous environment and planning approval conditions than anticipated.¹³¹

On the basis that we are satisfied that MLPL can substantially mitigate the cost impact of such¹³², we consider that accepting this pass through event would be inconsistent with the nominated pass through event considerations under the NER. We therefore do not approve the inclusion of this proposed pass through in the Supplementary Draft Decision.

Appendix A, Table A.2 summarises the nominated pass through events for the draft decision.¹³³

Materiality threshold and cost recovery

The pass through events set out in the NER, and the nominated pass through events we have accepted, are defined such that only 'material' costs can be passed through. 'Material' in respect of the pass through provisions relating to TNSPs is defined to be greater than 1 per cent of approved MAR for a regulatory year.¹³⁴ However, MLPL will not receive a MAR in

¹²⁷ E3 Advisory, [Risk and Contingency Report, Marinus Link](#), July 2025, p 71.

¹²⁸ A planning amendment is a decision made by the Victorian Minister for Planning under the Planning and Environment Act (1987).

¹²⁹ A biolink refers to a wildlife corridor that connects fauna.

¹³⁰ Marinus Link Project, Appendix A, Minister's assessment under the Environment Effects Act 1978, p 94.

¹³¹ E3 Advisory, [Risk and Contingency Report, Marinus Link](#), July 2025, p 28.

¹³² NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations'.

¹³³ AER, *Supplementary Draft Decision – Marinus Link Stage 1, Part B (Construction costs) Transmission Determination 2025–30: Appendix A – Cost pass through definitions*, November 2025, Table A.2.

¹³⁴ NER, Chapter 10 Glossary, definition of 'material'

the 2025–30 period as Marinus Link is not expected to provide prescribed transmission services until 1 July 2030. MLPL proposed, consistent with its revenue proposal for early works, to use a proxy MAR for each regulatory year within the regulatory period for the purposes of determining the materiality threshold¹³⁵. We accepted this proposal in our revenue determination for Stage 1 Part A (Early works).¹³⁶ For the avoidance of doubt MLPL submitted that the proxy MAR for this purpose is the non-concessional MAR.

We propose to accept MLPL’s proposal for determining a proxy MAR for the purposes of the pass through materiality threshold as this is consistent with past regulatory practice. This involves using the return on capital component for each regulatory year as a proxy for the MAR (exclusive of any concessional finance adjustments). The methodology for determining the proxy MAR for the purposes of the materiality threshold is set out in Box 1.

Box 1: Methodology for proxy Maximum Allowed Revenue

- (a) Allowed return on opening RAB = Allowed Return x Opening RAB
 - (b) Allowed return on annual capital expenditure and equity raising costs = Allowed rate of return^{0.5} x Expenditure (net of grant funding) plus Equity raising costs
 - (c) Debt raising costs = Debt raising cost rate x Debt gearing ratio x Opening RAB
- (a)+(b)+(c) MAR = Allowed return on opening RAB + Allowed return on annual Capital expenditure and Equity raising costs + Debt raising costs

MLPL submitted that it will not commence revenue recovery until the next regulatory control period commencing on 1 July 2030. MLPL submitted that as it will not be receiving revenue, there will be no approved revenue to adjust in order to recover the cost of the event in this regulatory period should a cost pass through event occur.

To address this issue, MLPL proposed the same approach we accepted in our revenue determination for Stage 1 Part A (Early works), where:

- a positive change event has occurred, the approved pass through amount will be added to the RAB, and
- a negative change event has occurred, the negative pass through amount will be deducted from the RAB.

We consider the appropriate mechanism for recovery is to capitalise any adjustments for cost pass throughs. Specifically, costs approved by the AER as part of a cost pass through application will be added to the approved capex forecast in the relevant regulatory year. This modification to the existing pass through mechanism is necessary because MLPL will not recover revenue in the period covered by this determination.

As we stated in the revenue determination for early works, this is consistent with the process established for intending TNSPs to recover costs incurred before assets are commissioned

¹³⁵ MLPL, [MLPL-B-002 MLPL Revised Revenue Proposal Stage 1 - Part B \(Construction\)](#), July 2025, p 83.

¹³⁶ AER, [Revenue Determination - Marinus Link - Stage 1, Part A \(Early works\)](#), December 2023.

(i.e., all efficient costs are capitalised and earn a rate of return until Marinus Link commences the supply of prescribed services).

We therefore determine to apply the pass through regime to MLPL, during the period for which it begins to earn revenue, as follows:

- if MLPL applies to pass through a positive pass through amount under cl. 6A.7.3(c) of the Rules, and the AER determines that a positive change event has occurred, the approved pass through amount will be added to the RAB for Marinus Link,
- if MLPL notifies the AER of a negative change event under cl 6A.7.3(f), or the AER otherwise becomes aware of a negative change event, and the AER determines a negative pass through amount, the negative pass through amount will be deducted from the RAB for MLPL.

5 Contingent Project Application

MLPL's revised proposal accepted our Initial Draft Decision to not accept the contingent project application for Stage 2.

Refer to the Marinus Link Initial Draft Decision for the reasons for our decision.¹³⁷

¹³⁷ AER, [*Initial Draft Decision - Marinus Link Stage 1, Part B \(Construction costs\) Transmission Determination 2025–30*](#), May 2025, pp 23–26.

6 Constituent decisions

The AER decided to adopt a two-stage approach in assessing the construction costs proposal. This included an Initial Draft Decision which was published in March 2025 and this Supplementary Draft Decision.

We have considered the updates provided by MLPL in its revised proposal and stakeholder submissions in response to our Initial Draft Decision and updated our constituent decisions.

Our Supplementary Draft Decision on MLPL’s transmission determination for the 2025–30 regulatory control period includes the below constituent components.

Constituent component
In accordance with clause 6A.14.1(1)(v) of the NER, the AER’s Supplementary Draft Decision is to approve the commencement and length of the regulatory control period as MLPL proposed in its revenue proposal. The regulatory control period will commence on 1 July 2025 and the length of this period is five years, expiring on 30 June 2030. The reasons for our Supplementary Draft Decision are set out in our Executive Summary.
In accordance with clause 6A.14.1(2)(i) of the NER and acting in accordance with clause 6A.6.7(c), the AER’s Supplementary Draft Decision is to not accept MLPL’s proposed total forecast capital expenditure of \$3,495.3 million (\$2023) for the 2025–30 regulatory control period. We determine an alternative estimate of the total forecast capital expenditure that we are satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors, of \$3,316.9 million (\$2023) for the 2025–30 regulatory control period. The reasons for our Supplementary Draft Decision are set out in section 2.3 of this Supplementary Draft Decision.
In accordance with clause 6A.14.1(4)(i) of the NER, the AER’s Supplementary Draft Decision is to not accept the proposed contingent project for the purpose of this revenue determination for MLPL.
In accordance with clause 6A.14.1(5A) of the NER, the AER’s Supplementary Draft Decision is that a varied capital expenditure sharing scheme (CESS) as set out in section 3 will apply to MLPL in the 2025–30 regulatory control period. The reasons for our Supplementary Draft Decision, and the way in which this scheme will apply to MLPL, are set out in section 3 of this Supplementary Draft Decision.
In accordance with clause 6A.14.1(5B) of the NER, the AER’s Supplementary Draft Decision is that the allowed rate of return for the 2025–26 regulatory year is 5.36% (nominal vanilla), as set out in section 2.2 of this Supplementary Draft Decision. The rate of return for the remaining regulatory years of the 2025–30 period will be updated annually because our Supplementary Draft Decision is to apply a trailing average portfolio approach to estimating debt which incorporates annual updating of the allowed return on debt.

Constituent component

In accordance with clause 6A.14.1(5C) of the NER, the AER's Supplementary Draft Decision is that the value of allowed imputation credits is 0.57. The reasons for our Supplementary Draft Decision are set out in section 2.2 of this Supplementary Draft Decision.

In accordance with clause 6A.14.1(5D) of the NER, the AER's Supplementary Draft Decision, and in accordance with clause 6A.6.1 and schedule 6A.2, the opening regulatory asset base (RAB) as at the commencement of the 2025–30 regulatory control period, being 1 July 2025, is \$400.6 (\$ nominal). The reasons for our Supplementary Draft Decision are set out in section 2.1 of this Supplementary Draft Decision.

In accordance with clause 6A.14.1(9) of the NER, the AER's Supplementary Draft Decision is to apply the following nominated pass through events to MLPL for the 2025–30 regulatory control period in accordance with clause 6A.7.3(a1)(5):

- Insurance coverage event
- Insurer's credit risk event
- Terrorism event
- Natural disaster event

The definitions of these events are set out in Appendix A. The reasons for our Supplementary Draft Decision are set out in section 4 of this Supplementary Draft Decision.

7 List of submissions

	Date
EUAA	August 2025
Hydro Tasmania	November 2025
Mr John Devereaux	November 2025
Mr John Pauley	August 2025
Private Citizen	August 2025
Professor Richard Eccleston	August 2025
Rainforest Reserves Australia	August 2025
Save our Surroundings Riverina	August 2025

8 Shortened Forms

Term	Definition
AACE	Association for the Advancement of Cost Engineering
ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Bppa	Basis points per annum
Capex	Capital expenditure
CEFC	Clean Energy Finance Corporation
CESS	Capital expenditure sharing scheme
CPA	Contingent project application
EBSS	Efficiency benefit sharing scheme
EMCa	Energy Market Consulting associates
EUAA	Energy Users Association of Australia
HVDC	High voltage direct current
ISP	Integrated System Plan
MLPL	Marinus Link Pty Ltd
MW	Megawatt
NER	National Electricity Rules
NEO	National Electricity Objectives
Opex	Operating expenditure
PTRM	Post-Tax Revenue Model
RAB	Regulatory asset base
RBA	Reserve Bank of Australia
RIT-T	Regulatory investment test for transmission
RORI	Rate of Return Instrument
RPP	Revenue and Pricing Principles
SME	Subject matter expert
STPIS	Service target performance incentive scheme

Term	Definition
TNSP	Transmission network service provider
WACC	Weighted average cost of capital
