

From: [REDACTED]
To: [Reset Coord](#)
Subject: AER consults on draft decision for Basslink's transmission revenue...
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via email: ResetCoord@aer.gov.au

AER consults on draft decision for Basslink's transmission revenue determination - Submission Objection

Executive Summary — This is a Fundamental Failure of Regulatory Integrity, Evidence, and the NEL Objective.

Across all parts of its Basslink conversion and draft revenue determination, the AER has delivered a decision that is economically inconsistent, technically unsubstantiated, legally vulnerable, internally contradictory, and completely detached from the NEL Objective.

The AER:

- *fails to apply any engineering rigour
- *relies on modelling it repeatedly admits is unreliable
- *ignores contradictory evidence
- *reverses the burden of proof
- *substitutes speculation for analysis
- *transfers all commercial risk onto consumers
- *refuses to quantify actual benefits with confidence
- *inflates upside scenarios while suppressing downside cases
- *fails to justify a multi-billion-dollar consumer liability

The decision cannot be allowed to stand.

It warrants an immediate independent audit, a moratorium on conversion, and escalation to a full independent inquiry / Royal Commission into the integrity and evidentiary standards of the entire process.

1. AER's Opening Assumptions and RAB Determination Are Arbitrary, Unsupported, and Economically Dangerous

The AER claims its opening RAB of ~\$720 million reflects “depreciated actual cost” — yet it provides no engineering verification, no independent asset condition report, no technical due diligence, and no third-party physical valuation of a 500 MW undersea HVDC asset commissioned in 2006.

There is:

- no cable ageing analysis
- no refurbishment cost curves
- no expected failure rate modelling
- no seabed survey data
- no physical inspection evidence
- no technical audit

The AER constructed a billion-dollar RAB on paper modelling alone, not engineering evidence.

This is an extraordinary regulatory failure.

2. AER's Counterfactual Analysis (Parts 1–3) Is Circular, Contradictory, and Predetermined

Across all parts of the decision, the AER's handling of counterfactuals displays: logical contradictions

selective acceptance of stakeholder claims

dismissal of evidence that does not support conversion

avoidance of central estimates

reliance on uncertainty as justification

AER repeatedly states:

“not clear”

“uncertain”

“cannot be ruled out”

“uncertain benefits”

“unreliable modelling”

“wide range of outcomes”

“significant uncertainty across all scenarios”

Yet it uses this very uncertainty to justify conversion.

This reverses the legal test.

Under the NEL, uncertain benefits can never justify certain consumer costs.

3. AER Treats Stakeholder Evidence With Open Bias

The AER elevates or suppresses stakeholder views based entirely on whether they support its preferred outcome:

Views AER favours:

Victoria's position that “merchant is implausible” — treated as authoritative.

APA's claims of commercial unviability — treated as fact.

Modelling scenarios predicting benefits — highlighted prominently.

Views AER dismisses or minimise:

Tasmania's warnings of ACCC competition concerns

Hydro Tasmania's explicit rejection of a future agreement

ACIL Allen's uncertainty warnings

Evidence of stranding risk under dual Marinus

Evidence of high modelling sensitivity

Evidence that benefits are dominated by wealth transfers rather than efficiency

This is not an impartial regulatory assessment.

It is selective evidence curation to reach a predetermined policy outcome.

4. AER's Use of Modelling Is Reckless and Contradictory

The AER acknowledges:

“results differ widely”

“highly sensitive to assumptions”

“not reliable for consumer benefit analysis”

“uncertain magnitude of benefits”

“possible outcomes range from negative to highly positive”

Yet it proceeds by citing precisely the models it says cannot be relied upon.

It highlights:

the largest possible upside modelled

while

downplaying the negative or low-benefit results

A regulator cannot impose a \$1.341 billion liability on consumers using modelling it openly describes as unstable, assumption-driven, and non-robust.

This is a breach of:

the NEL Objective

NER 6A.10
procedural reasonableness
basic economic practice

5. AER Ignores Fundamental Engineering Realities

Nowhere in the entire analysis does AER assess:

- cable mechanical condition
- converter station ageing
- harmonic stability
- DC link performance history
- thermal limits
- repair timelines
- seabed movement / geological risk
- FCSPS technical dependency
- HVDC interface reliability under dual interconnector operation
- Basslink is a physical asset, not a spreadsheet.

Yet AER provides zero engineering evidence to justify any assumption about:
continued operation

- cost trajectories
- outage risk
- end-of-life timeframe
- refurbishment viability
- physical interoperability with Marinus

This is unacceptable for a decision of this magnitude.

6. AER's Price Impact Analysis Is Misleading and Economically Unsound

AER presents:

certain transmission charges of \$1.341 billion

vs.

completely uncertain wholesale price effects, ranging from:

-\$164 million (worse for consumers)

to

+\$4.82 billion (best-case)

AER then:

refuses to choose a central estimate

refuses to provide probability weighting

conflates wealth transfers with actual efficiency

acknowledges auction proceeds may be far lower than modelled

assigns high value to upside cases while dismissing downside risk

This violates the requirement to act on:

probable outcomes, not speculative uplifts.

It is economically irresponsible and legally indefensible.

7. AER's Risk Allocation Approach Is a One-Way Dump onto Consumers

The AER forces consumers to take on:

- merchant revenue risk
- utilisation risk
- stranding risk
- modelling volatility
- future replacement risk
- contract uncertainty
- Marinus dependency risk
- future regulatory change risk
- outage risk

asset failure risk

While APA receives:

guaranteed revenue certainty

no merchant exposure

no incentive to negotiate

no commercial discipline

guaranteed recovery of sunk costs

This is a regulatory wealth transfer from the public to a private owner without demonstrating a net public benefit.

It contradicts the NEO outright.

8. Reliability Claims Are Unsupported and Sometimes Fictional

AER concludes:

“reliability likely not to differ materially under regulation”

“merchant incentives likely strong enough to maintain availability”

“regulated status provides no guarantee of investment”

These statements confirm:

Conversion does not improve reliability.

If reliability does not improve, and benefits are uncertain, conversion cannot satisfy the NEO.

9. AER’s Final Justification Is Fact-Free and Legally Inadequate

AER ultimately claims conversion will provide:

“some degree” of market benefits.

This phrase:

has no quantification

no central estimate

no probability

no engineering basis

no statutory compliance

A billion-dollar consumer charge cannot be justified with:

“some degree”.

This is not analysis — it is hand-waving.

It does not meet the NEL Objective, and it does not fulfil the regulator’s legal duties.

10. Grounds for Immediate Moratorium, Independent Audit, and Full Inquiry

Given the failures across ALL PARTS of the AER’s decision:

absence of engineering evidence

reliance on contradictory modelling

selective use of stakeholder input

incomplete risk assessment

failure to produce central estimates

breach of basic economic evaluation standards

certain consumer costs vs. speculative benefits

potential procedural unfairness

disregard for counterfactual analysis requirements

inability to satisfy the NEO

A full independent forensic audit and moratorium on conversion is essential.

A Royal Commission-level inquiry into the integrity, objectivity, and evidentiary standards of the entire process may now be warranted.

CONCLUSION

The AER’s analysis across all sections is:

not technically supported

not economically justified

not legally robust

not aligned with the NEL Objective

The decision represents a fundamental regulatory failure, exposes consumers to guaranteed costs, and is built on uncertain benefits, unreliable modelling, and no engineering evidence whatsoever.

This decision must be withdrawn, suspended, independently audited, and reviewed under full inquiry.

From:

‘Save Our Surroundings Riverina’

[REDACTED]

[REDACTED]