# Questions taken on notice during workshop on the review of ring-fencing & shared asset guidelines

## Cost allocation, shared assets and government funding

1. **How does the AER prevent cross-subsidisation where the forecast allocation of a multi-service asset between regulated and unregulated activities differs materially from its actual use? In particular, are cost allocations for community batteries revised or reconciled against actual outcomes and, if not, how can the AER be satisfied that unregulated activities are not being subsidised?**

   The AER does not generally revise or annually reconcile the original cost allocation for a shared asset, including a community battery, against actual use. Cost allocation is usually set when an asset is established, based on expected future use. If actual use later changes so that an asset funded through regulated charges is also used to earn unregulated revenue, the Shared Asset Guideline addresses this through a revenue reduction rather than by reopening the original allocation. For most shared assets, this reduction is forward-looking and applies where forecast unregulated shared asset revenue is material—above 1 per cent of the annual revenue requirement—with regulated revenue reduced by 10 per cent of forecast unregulated shared asset revenue, subject to a cap based on the return on and return of capital.

   The AER's assurance comes from its ability to test DNSPs' proposals and require supporting information through annual reporting, regulatory proposal information requirements and other mechanisms. DNSPs may be required to report unregulated services, total shared asset unregulated revenue, relevant shared assets, contracts, actual or estimated regulated SAPS revenue, and any proposed revenue apportionment. The AER can reject unreasonable proposals, substitute its own apportionment or estimate, or determine a cost reduction where one is required. For community batteries, the key issue is whether regulated consumers funded the asset and whether it earns unregulated revenue; the AER relies on reported revenues, cost allocation information, contract evidence and its revenue determination process to satisfy itself that regulated consumers are not subsidising unregulated activities.

2. **Are the forecasts and actual outcomes reported under community-battery or similar waivers publicly available? What information does the AER receive about regulated and unregulated use, cost allocations and revenue, and what information is disclosed to stakeholders?**

   Forecast and actual outcomes for community-battery and similar waivers are partly public, but there is not currently a consolidated, publicly reported dataset. The AER receives information required by each waiver, which may include forecast and actual benefits, lease arrangements, revenue and independently assessed compliance information. Some of this is disclosed through waiver applications and decisions, DNSP waiver registers, regulatory proposals and annual ring-fencing compliance reports. However, detailed contracts, lease prices, cost-allocation calculations and commercially sensitive revenue information are generally not publicly available.

3. **Are ring-fencing waivers for government-funded or ARENA-funded community batteries conditional on the DNSP not recovering costs from regulated consumers? How does the**

**AER prevent DNSPs from recovering funded costs from regulated consumers? For example, is this managed through costs allocation or waiver conditions?**

A DNSP that receives government or ARENA funding for a community battery is not automatically prevented from including some costs in the RAB. The key control is that only the share of costs attributable to standard control network services may be recovered from regulated consumers. Government-funded costs should not be recovered from consumers, and any amount allocated to the RAB must be limited to the forecast network benefit provided by the battery.

For community-battery waivers, this is managed through the waiver conditions and the cost-allocation methodology rather than through a blanket prohibition on DNSPs receiving government funding. For example, the AER's community battery class waiver included controls to ensure the cost allocated to the RAB cannot exceed the forecast network benefit, even where the benefit-based apportionment would otherwise produce a higher RAB allocation.

The AER prevents double recovery by requiring DNSPs to identify how project costs, government contributions, regulated benefits and unregulated benefits are allocated, and by limiting what can be recovered from regulated consumers. Where the asset is fully government-funded, it should not enter the RAB. Where it is partly funded or partly used for regulated services, only the appropriate regulated share may be included, subject to the waiver controls and supporting evidence.

The AER then monitors this through the information required under the waiver and related compliance reporting, including evidence supporting the cost allocation and reporting on regulated and unregulated benefits. This provides assurance that consumers are not paying for costs funded by government or for costs attributable to unregulated services.

4. **How are government-funded assets treated for regulatory asset base purposes? In particular, are community batteries or similar assets excluded from the RAB or otherwise adjusted to prevent consumers paying twice? How is associated operating expenditure treated?**

Government-funded assets are treated as gifted assets and are not included in the RAB. Therefore, electricity customers are not paying for it. If the asset is partially funded by the government (third party) then that proportion is not included in the RAB.

The associated operating expenditure treatment is dependent on whether the asset is providing a standard control service, or an alternative control service. If it is a standard control service, then the ongoing operation expenditure is recovered in the normal opex forecast. If the asset provides alternative control services, then it is covered by the revenue earned or directly from the customer effected by the service.

5. **Why is the Cost Allocation Guideline not being reviewed alongside the Ring-fencing and Shared Asset Guidelines, given the close interaction between cost allocation, shared assets and ring-fencing?**

The AER recognises that cost allocation, ring-fencing and shared asset arrangements are closely connected and that changes to one framework may affect the operation of the others. However, this review is focused on issues that can be addressed through amendments to the Ring-fencing Guideline and Shared Asset Guideline. Changes to the cost allocation and service classification frameworks may require amendments to the National Electricity Rules. These broader issues may therefore be more appropriately considered through the AEMC's Electricity Network Regulation Review.

## CitiPower EV-charging waiver

6. **How will the AER respond to the specific concerns raised about CitiPower's EV-charging waiver? This includes alleged delays to competitors' connections, different technical or installation requirements being applied, access to assets that competitors had been told were unsuitable, and whether these matters indicate discrimination or non-compliance warranting enforcement or revocation of the waiver.**

   During consultation on CPU's waiver application in 2025, stakeholders raised concerns about delays in getting access to poles for the provision of EV charging infrastructure and access fees. In response, in the draft revenue determination decisions for Victorian DNSPs in September 2025, the AER proposed classifying the rental of DNSP-owned assets for EV charging infrastructure as a negotiated distribution service "to support negotiation of access to Victorian DNSPs' kerbside poles for that purpose on terms that are fair, reasonable and cost reflective".

   In April 2026, the AER confirmed that pole access for EV charging infrastructure would be classified as a negotiated distribution service for the Victorian DNSPs for the 2026-31 regulatory period. Victorian DNSPs are required to provide EV charging infrastructure pole-access services through an approved negotiated distribution service framework incorporating access principles, pricing arrangements and dispute resolution processes.

   The AER has not received any complaints regarding access timeframes or costs since granting CPU's EV charging infrastructure ring-fencing waiver. We encourage stakeholders that are experiencing issues or have concerns to contact the AER.

## Waiver assessment and decision-making

7. **Have any ring-fencing waiver applications been refused? Is the information available on the AER website a complete record of applications, approvals and refusals?**

   The AER refused one waiver in 2017 concerning Ausgrid's non-standard connection services, because it determined that a waiver was not required for those services.

   Most applications reaching a final decision have been granted, but often not for the duration requested or subject to conditions. The AER website records published applications and decisions but is not a complete record of all preliminary enquiries or draft applications. Some proposals do not progress to a formal decision following advice from AER staff, and applications still under consideration should not be treated as approved or refused until the decision-making process is complete.

8. **How does the AER weigh stakeholder submissions opposing a waiver? Does the AER consider that opposing submissions have generally provided insufficient evidence or reasoning to justify refusing applications?**

   The AER considers all submissions, regardless of whether they are supportive or against a waiver application. In assessing waiver applications, the AER must have regard to the mandatory criteria that are set out in the guideline, including the NEO, the risks of cross-subsidisation and discrimination, and the benefits of not granting the waiver to consumers (including competition impacts) vs the costs to the DNSP. The AER may also have regard to any other factors that we believe are relevant to the waiver application. The AER may also consider whether the risks posed by granting a waiver can be mitigated through waiver conditions.

## Waiver consultation and transparency

9. **How are stakeholders notified of waiver applications and proposed extensions? Are competitors and affected market participants proactively informed and given an opportunity to comment when an existing waiver is extended or varied?**

   If the AER is consulting on a waiver application or variation, we will publish details on our website and issue a communications notice. Depending on the nature of the ring-fencing waiver, targeted stakeholder emails are also distributed to mailing lists containing those who have engaged on the same ring-fencing issue previously. All currently open consultation, including those related to ring-fencing, can be viewed at: [Consultations | Australian Energy Regulator (AER)].

   In some, limited circumstances the AER may decide not to consult on a waiver application. This is typically where we deem the waiver to be low risk and non-controversial. In these cases, the AER will publish a notice of our decision on the AER website.

10. **How can stakeholders distinguish on the AER website between waivers that have already been granted and applications that remain open for consultation?**

    Visit [Decisions | Australian Energy Regulator (AER)] to find all open, current and historical documents related to ring -fencing waiver applications and decisions. The status of the item will indicate if it is currently open for consultation ('open'), if the waiver has been granted and is active ('current'), or if the waiver was granted and has now expired ('historical'). We endeavour to ensure these statuses remain up-to-date.

11. **Are approved waivers, their conditions, duration, monitoring requirements and compliance outcomes all published in sufficient detail on the AER website?**

    All waiver decisions, including any associated waiver conditions and supporting documents, are published on the AER's website. AER staff, including a dedicated compliance monitoring team, regularly monitor and assess network business compliance with waiver conditions.

    Network businesses are also required to submit an annual compliance report to the AER, including details on how they are complying with any waiver conditions. Compliance reports, including annual ring-fencing compliance reports, can be viewed at: [Compliance reports | Australian Energy Regulator (AER)].

## Compliance monitoring, breach reporting and enforcement

12. **What is the process for confidential or anonymous reporting of suspected ring-fencing or waiver breaches?**

    Ring-fencing related enquiries or reports can be sent to: AERringfencing@aer.gov.au

    Information provided to the AER is obtained, used and disclosed in accordance with the [AER Information Policy]. The AER can receive information voluntarily, including information provided on a confidential basis, and will manage that information in accordance with applicable legal requirements and the AER's Information Policy. In some circumstances, the AER may be legally required to produce confidential information.

The AER recognises that in some cases the release of information provided by complainants and informants (such as their identity) may have a substantial adverse effect on that party and affect the willingness of other information providers to assist the AER in its functions. Where requested to do, the AER will, to the extent reasonably possible, seek to protect that information.

13. **Is the AER's monitoring and enforcement of functional-separation obligations primarily dependent on DNSP self-reporting and third-party complaints? What data can the AER provide on reported breaches, investigations, rectification actions and enforcement action since the guideline commenced?**

The AER obtains information about potential non-compliance with all obligations from a range of sources, including entity self-reports, complaints, consumer intermediaries, ombudsman schemes, annual compliance reporting and the AER's own monitoring and intelligence activities.

Specifically, network businesses are required to report annually on how they have complied with ring-fencing obligations, including functional separation obligations, as part of their annual ring-fencing compliance reports. These reports are published on the AER's website and include details of any breaches that they have reported through the year and remedial actions.

Compliance with ring-fencing obligations is also an explicit AER Compliance and Enforcement Priority for 2026–27. The AER will continue to monitor compliance, including obligations relating to confidential information, and investigate serious non-compliance where appropriate.

The AER reports publicly on our compliance and enforcement activities by announcing outcomes as matters are resolved and via our Annual Compliance and Enforcement Report which outlines significant compliance and enforcement actions undertaken during the relevant reporting period.

14. **What enforcement powers does the AER have where a DNSP breaches the Ring-fencing Guideline or a condition of a waiver?**

The AER can investigate suspected non-compliance, require written responses and use its statutory information-gathering powers to obtain information, documents and evidence. As compliance with the Ring-fencing Guideline is a tier 1 civil penalty provision, the AER may issue an infringement notice, accept a court-enforceable undertaking or commence court proceedings seeking civil penalties, injunctions and orders requiring rectification or improved compliance systems. A failure to comply with a waiver condition may mean the relevant conduct is no longer authorised by the waiver and therefore breaches the underlying guideline obligation; the AER may also vary or revoke the waiver after providing the required notice. The enforcement response will depend on factors such as the seriousness and duration of the breach, consumer or competition harm, whether it was self-reported, and the DNSP's actions to remedy it.