



**DRAFT DECISION**  
**AusNet Services transmission**  
**determination**  
**2017–18 to 2021–22**

**Attachment 13 – Pass through**  
**events**

July 2016

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## Note

This attachment forms part of the AER's draft decision on AusNet Services' revenue proposal 2017–22. It should be read with other parts of the draft decision.

The draft decision includes the following documents:

Overview

Attachment 1 – maximum allowed revenue

Attachment 2 – regulatory asset base

Attachment 3 – rate of return

Attachment 4 – value of imputation credits

Attachment 5 – regulatory depreciation

Attachment 6 – capital expenditure

Attachment 7 – operating expenditure

Attachment 8 – corporate income tax

Attachment 9 – efficiency benefit sharing scheme

Attachment 10 – capital expenditure sharing scheme

Attachment 11 – service target performance incentive scheme

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Attachment 13 – pass through events

Attachment 14 – negotiated services

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## Shortened forms

Shortened form	Extended form
AARR	aggregate annual revenue requirement
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ASRR	annual service revenue requirement
augex	augmentation expenditure
capex	capital expenditure
CCP	Consumer Challenge Panel
CESS	capital expenditure sharing scheme
CPI	consumer price index
DRP	debt risk premium
EBSS	efficiency benefit sharing scheme
ERP	equity risk premium
MAR	maximum allowed revenue
MRP	market risk premium
NEL	national electricity law
NEM	national electricity market
NEO	national electricity objective
NER	national electricity rules
NSP	network service provider

Shortened form	Extended form
NTSC	negotiated transmission service criteria
opex	operating expenditure
PPI	partial performance indicators
PTRM	post-tax revenue model
RAB	regulatory asset base
RBA	Reserve Bank of Australia
repex	replacement expenditure
RFM	roll forward model
RIN	regulatory information notice
RPP	revenue and pricing principles
SLCAPM	Sharpe-Lintner capital asset pricing model
STPIS	service target performance incentive scheme
TNSP	transmission network service provider
TUoS	transmission use of system
WACC	weighted average cost of capital

## 13 Pass through events

During the regulatory control period, a service provider can apply to us to pass material changes in its costs arising from pre-defined exogenous events through to customers, in the form of higher or lower network charges. These events are called cost pass through events. Positive pass throughs exist in the rules as a mechanism to allow service providers to recover their efficient costs incurred as a result of events that could not be forecast as part of their proposal that otherwise would have a significant financial effect on the ability of networks to invest in and operate their networks.<sup>1</sup>

The NER include the following pass through events for all transmission determinations:<sup>2</sup>

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

In addition to these prescribed events, other 'nominated' pass through events may be specified in a determination for a regulatory control period.<sup>3</sup>

This attachment sets out our draft decision on the nominated pass through events that will apply to AusNet Services for the 2017–22 regulatory control period.

### 13.1 Draft decision

We accept the Insurer Credit Risk Event as proposed by AusNet Services.

We also accept the following nominated pass through events, with minor modifications to the definitions as set out in section 13.4.2 of this attachment:

- Terrorism event
- Insurance cap event
- Natural disaster event.

We do not accept the remaining nominated pass through events AusNet Services proposed:

- Decommissioning of Point Henry – Geelong Terminal Station 220kV Lines Event
- The confidential nominated pass through event.

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<sup>1</sup> AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, Sydney, p. 2.

<sup>2</sup> NER, cl. 6A.7.3(a1)(1)–(4). Each of these prescribed events is defined in Chapter 10 (Glossary) of the NER.

<sup>3</sup> NER, cl. 6A.7.3(a1)(5) .

The reasons for our draft decision are set out in section 13.4.

## 13.2 AusNet Services' proposal

AusNet Services proposed six nominated pass through events in addition to the events prescribed by the NER.<sup>4</sup>

Three of these events—the terrorism event, insurance cap event and natural disaster event—were also included in AusNet Services' current transmission determination, but AusNet Services has proposed changes to the definitions of these events for the 2017–22 regulatory control period.

Two of these events—the insurer credit risk event and the decommissioning of the point Henry to Geelong Terminal Station 220kV lines event—are new events for AusNet Services' transmission network.

A third new event was submitted in confidence. Details of this event are discussed separately in confidential appendix A to this attachment. AusNet Services stated in its proposal that it is open to disclosing the details of the proposed event to stakeholders on request, subject to suitable confidentiality agreements being put in place.<sup>5</sup>

AusNet Services' proposed nominated pass through events are set out in Table 13-1.

**Table 13-1 AusNet Services' proposed pass through events**

Proposed event	AusNet Services' proposed definition
Terrorism event	<p>A terrorism event occurs if:</p> <p>An act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear) and which materially increases the costs to AusNet Services in providing prescribed transmission services.</p> <p>Note: In assessing a terrorism event pass through application, the AER will have regard to, amongst other things:</p> <ul style="list-style-type: none"> <li>i. whether AusNet Services has insurance against the event, including coverage from the Australian Reinsurance Pool;</li> <li>ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and</li> <li>iii. whether a declaration has been made by a relevant government authority that a terrorism event has occurred.</li> </ul>
Insurance cap event	An insurance cap event occurs if:

<sup>4</sup> AusNet Services, *AusNet Transmission Group Pty Ltd Transmission Revenue Review 2017–22*, October 2015, p. 313.

<sup>5</sup> AusNet Services, *AusNet Transmission Group Pty Ltd Transmission Revenue Review 2017–22*, October 2015, p. 312.



Proposed event	AusNet Services' proposed definition
	<p>1. AusNet Services makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy;</p> <p>2. AusNet Services incurs costs beyond the relevant policy limit; and</p> <p>3. the costs beyond the relevant policy limit materially increase the costs to AusNet Services in providing prescribed transmission services.</p> <p>For this insurance cap event:</p> <p>4. the relevant policy limit is the greater of:</p> <p>a. AusNet Services' actual policy limit at the time of the event that gives, or would have given rise to a claim; and</p> <p>b. subject to paragraph c, the policy limit that is explicitly or implicitly commensurate with the allowance for insurance premiums that is included in the forecast operating expenditure allowance approved in the AER's final decision for the regulatory control period;</p> <p>c. the policy limit in paragraph b will not be taken as the greater policy limit if that policy limit at the time of the event that gives rise to a claim, was not available to AusNet Services for reasons beyond its control;</p> <p>5. a relevant insurance policy is an insurance policy held during the 2017–22 regulatory control period or a previous regulatory control period in which AusNet Services was regulated.</p> <p>Note: for the avoidance of doubt, in assessing an insurance cap event cost pass through application under Rule 6A7.3, the AER will have regard to, amongst other things:</p> <p>i. the relevant insurance policy for the event; and</p> <p>ii. the level of insurance that an efficient and prudent TNSP would obtain in respect of the event.</p>
Natural disaster event	<p>A natural disaster event occurs if:</p> <p>Any major fire, flood, earthquake or other natural disaster occurs during the 2017-22 regulatory control period and materially increases the costs to AusNet Services in providing prescribed transmission services, provided the fire, flood or other event was not a consequence of the acts or omissions of the service provider.</p> <p>The term 'major' in the above paragraph means an event that is serious and significant. It does not mean material as that term is defined in the Rules (that is 1 per cent of the TNSP's annual revenue requirement for that regulatory year).</p> <p>Note: In assessing a natural disaster event pass through application, the AER will have regard to, amongst other things:</p> <p>i. whether AusNet Services has insurance against the event;</p> <p>ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and</p> <p>iii. whether a relevant government authority has made a declaration that a natural disaster has occurred.</p>
Insurer credit risk event	<p>An insurer's credit risk event occurs if:</p> <p>A nominated insurer of AusNet Services becomes insolvent, and as a result, in respect of an existing, or potential, claim for a risk that was insured by the insolvent insurer, AusNet Services:</p> <p>1. is subject to a materially higher or lower claim limit or a materially higher or lower deductible than would have otherwise applied under the insolvent insurer's policy; or</p>

Proposed event	AusNet Services' proposed definition
Decommissioning of Point Henry – Geelong Terminal Station 220kV Lines Event	<p>2. incurs additional costs associated with self-funding an insurance claim, which would otherwise have been covered by the insolvent insurer.</p> <p>Note: In assessing an insurer's credit risk event pass through application, the AER will have regard to, amongst other things:</p> <ul style="list-style-type: none"> <li>i. AusNet Services' attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer's track record, size, credit rating and reputation; and</li> <li>ii. in the event that a claim would have been made after the insurance provider became insolvent, whether AusNet Services had reasonable opportunity to insure the risk with a different provider."</li> </ul> <p>"A PTH-GTS line decommissioning event occurs if AusNet Services is required by a relevant authority to remove all, or part of, the 220kV lines between Point Henry and Geelong Terminal Station and associated infrastructure.</p> <p>Note: In assessing a PTH-GTS line decommissioning event pass through application, the AER will have regard to, amongst other things:</p> <ul style="list-style-type: none"> <li>i. The origin and nature of the requirement to remove all, or part of, the lines and associated infrastructure;</li> <li>ii. Any payments received by AusNet Services for the return of the easements to the landholders; and</li> <li>iii. AusNet Services' actions in seeking to minimise the costs of the PHT-GTS line decommissioning event."</li> </ul>
Confidential event	<p>AusNet Services has submitted all details of this proposed event, including its definition and AusNet Services' submissions in support of this event, to us in confidence.</p> <p>AusNet Services stated in its proposal that is open to disclosing the details of the proposed event to stakeholders on request, subject to suitable confidentiality agreements being put in place.<sup>6</sup></p>

Source: AusNet Services, AusNet Transmission Group Pty Ltd Transmission Revenue Review 2017–22, October 2015, pp. 314–319.

### 13.3 AER's assessment approach

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

In this decision, our task is to determine whether to accept the nominated pass through events.

The NER include the following pass through events for all transmission determinations:<sup>7</sup>

<sup>6</sup> AusNet Services, *AusNet Transmission Group Pty Ltd Transmission Revenue Review 2017–22*, October 2015, p. 312.

<sup>7</sup> NER, cl. 6A.7.3(a1)(1)–(4). Each of these prescribed events is defined in Chapter 10 (Glossary) of the NER.

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

They also allow a service provider to propose other events be specified in a determination as a pass through event for that determination.<sup>8</sup> Our draft decision must include a decision on the additional (nominated) pass through events that are to apply for the regulatory control period.<sup>9</sup>

Our assessment approach is guided by the National Electricity Objective (NEO) and the Revenue and Pricing Principles. These provide the service provider with a reasonable opportunity to recover at least the efficient costs incurred in providing services and complying with its obligations.<sup>10</sup> They also provide incentives to promote economic efficiency.<sup>11</sup> Together, they promote a balance between the economic costs and risks of the potential for under and over investment by a service provider, to promote efficient investment.<sup>12</sup> In the context of pass through events, we have particular regard to the impact on price, quality, reliability and security of supply that may arise as a result of any change in the efficient operation of, and ability and incentive of, a service provider to invest in its network.<sup>13</sup>

In determining whether we accept a nominated pass through event, we must take into account the nominated pass through event considerations:<sup>14</sup>

*The nominated pass through event considerations are:*

(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;

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<sup>8</sup> NER, cl. 6A.7.3(a1)(5).

<sup>9</sup> NER, cl. 6A.14.1(9) .

<sup>10</sup> NEL, s. 7A(2).

<sup>11</sup> NEL, s. 7A(3).

<sup>12</sup> NEL, s. 7A(6).

<sup>13</sup> NEL, s. 7; AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, Sydney, p. 6.

<sup>14</sup> NER, cl. 6A.6.9(b); NER Chapter 10: Glossary, definition of 'nominated pass through event considerations'.

(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. That is, a cost pass through event is the least efficient option for managing the risk of unforeseen events.<sup>15</sup>
- 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.<sup>16</sup>

In turn, this protects the incentive regime under the NER by limiting the erosion of incentives on service providers to use market based mechanisms to mitigate the cost impacts that would arise.<sup>17</sup> 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.<sup>18</sup>

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<sup>15</sup> AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, Sydney, p. 19.

<sup>16</sup> AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, Sydney, p. 20.

<sup>17</sup> AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, Sydney, p.8.

<sup>18</sup> AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, Sydney, p.8.

### 13.3.1 Interrelationships

The pass through mechanism is not the only way in which service providers can manage their risks under a transmission determination. It is interrelated with other parts of this decision, in particular with the forecast opex and capex and rate of return included in our revenue determination. These interrelationships require us to balance the incentives in the various parts of our decision.

For systemic 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 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.<sup>19</sup>

In general, in respect of smaller projects a service provider should be using up its existing expenditure allowance, or reprioritising or substituting its projects, to avoid seeking cost recovery through the pass through mechanisms.<sup>20</sup> This is reflected in the materiality threshold that applies to applications for cost pass through determinations.<sup>21</sup>

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.<sup>22</sup>

Cost pass through amounts that have already been recovered in a regulatory period cannot be recovered again in the roll-forward of the regulatory asset base (RAB) for the next regulatory period.<sup>23</sup>

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<sup>19</sup> AEMC 2012, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, Sydney, pp. 19–20.

<sup>20</sup> AEMC 2012, *Economic Regulation of Network Service Providers, and Price and Revenue Regulation of Gas Services, Final Position Paper*, 29 November 2012, Sydney, p. 186.

<sup>21</sup> NER, Chapter 10: Glossary, definition of 'materially'.

<sup>22</sup> AER, *Efficiency Benefit Sharing Scheme for Electricity Network Service Providers*, November 2013, p. 9; AER, *Capital Expenditure Incentive Guideline for Electricity Network Service Providers*, November 2013, p. 18.

## 13.4 Reasons for draft decision

In this section we set out the reasons for our draft decisions on each of AusNet Services' proposed pass through events. We received no submissions on this element of AusNet Services' proposal.

### 13.4.1 Insurer credit risk event

We accept the Insurer Credit Risk Event as proposed by AusNet Services.

The proposed insurer credit risk event was not included in AusNet Services' current transmission determination. AusNet Services submitted that:<sup>24</sup>

...its inclusion for the forthcoming [2017–22] regulatory control period is warranted because it meets all of the requirements of the nominated pass through event considerations.

...its proposed definition aligns with that approved by the AER in its April 2015 final decision for TransGrid.

We are satisfied this event is supported by the nominated pass through event considerations. It is not covered by the prescribed events, and its nature can be clearly identified at the time of our transmission determination. To insure or self – insure fully against the event is unlikely to be prudent or efficient. Provided AusNet Services has taken appropriate measures to prevent the event from occurring and mitigate its impact, we consider sharing the remaining risk between AusNet Services and its customers by way of the pass through provisions is likely to best achieve the NEO, particularly with regard to the long term interest of consumers with respect to price.

### 13.4.2 Terrorism event, Insurance cap event, Natural disaster event

Our draft decision accepts AusNet Services' proposed terrorism event, insurance cap event and natural disaster event with the minor amendments to the definitions set out in Table 13.2 below.

AusNet Services' current transmission determination includes a terrorism event, insurance cap event and natural disaster event. AusNet Services proposed these events continue to apply for the 2017–22 regulatory control period.

We are satisfied that these nominated pass through events are consistent with the nominated pass through event considerations because:

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<sup>23</sup> NER, cl. S6A.2.1(f)(1)(ii).

<sup>24</sup> AusNet Services, *AusNet Transmission Group Pty Ltd Transmission Revenue Review 2017–22*, October 2015, p. 316.

- These events are not covered by the prescribed pass through events under the NER.<sup>25</sup>
- The nature and type of events can be clearly identified at the time of our decision, and where there is room for doubt appropriate parameters can be applied through our assessment of a pass through application.<sup>26</sup>
- While a prudent service provider could take steps to reduce the likelihood of these events and the cost impact of the events should they occur,<sup>27</sup> and could insure or self-insure against the event,<sup>28</sup> expenditure beyond a certain point (e.g. to eliminate, rather than manage, risk) is likely to be imprudent or inefficient. In such circumstances we consider a sharing of risk between AusNet Services and its customers is appropriate and more likely to be in the long term interest of consumers with respect to price.

AusNet Services proposed amendments to the definitions of these events in its current transmission determination, which aligned them with the nominated pass through events we approved for TransGrid (the New South Wales electricity transmission network service provider) in April 2015.<sup>29</sup>

However in more recent decisions—including our final decision on AusNet Services’ distribution determination for 2016–20,<sup>30</sup> we have made minor amendments to these definitions. These are set out in Table 13.2. To provide consistency between AusNet Services’ transmission and distribution determinations in the treatment of similar risks, our draft decision is that these more recent definitions should apply in its transmission determination also.

**Table 13.2: AER draft decision definitions – Terrorism, insurance cap and natural disaster events**

Proposed event	AER draft decision definition
Terrorism event	<p>A terrorism event occurs if:</p> <p>An act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear) and which materially increases the costs to AusNet Services in providing prescribed transmission services.</p> <p>Note: In assessing a terrorism event pass through application, the AER will</p>

<sup>25</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations', cl. (a).

<sup>26</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations', cl. (b).

<sup>27</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations', cl. (c).

<sup>28</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations', cl. (d).

<sup>29</sup> AusNet Services, *AusNet Transmission Group Pty Ltd Transmission Revenue Review 2017–22*, October 2015, pp. 314–316.

<sup>30</sup> AER, *Final decision AusNet distribution determination - Attachment 15 - Pass through events*, May 2016, pp. 6–8.

Proposed event	AER draft decision definition
	<p>have regard to, amongst other things:</p> <ol style="list-style-type: none"> <li>i. whether AusNet Services has insurance against the event including coverage from the Australian Reinsurance Pool;</li> <li>ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and</li> <li>iii. whether a declaration has been made by a relevant government authority that an <u>act of terrorism event</u> has occurred.</li> </ol>
Insurance cap event	<p>An insurance cap event occurs if:</p> <ol style="list-style-type: none"> <li>1. AusNet Services makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy;</li> <li>2. AusNet Services incurs costs beyond the relevant policy limit; and</li> <li>3. the costs beyond the relevant policy limit materially increase the costs to AusNet Services in providing prescribed transmission services.</li> </ol> <p>For this insurance cap event:</p> <ol style="list-style-type: none"> <li>4. <del>the relevant policy limit is the greater of:</del> <ol style="list-style-type: none"> <li>a. <del>AusNet Services' actual policy limit at the time of the event that gives, or would have given rise to a claim; and</del></li> <li>b. <del>subject to paragraph c, the policy limit that is explicitly or implicitly commensurate with the allowance for insurance premiums that is included in the forecast operating expenditure allowance approved in the AER's final decision for the regulatory control period;</del></li> <li>c. <del>the policy limit in paragraph b will not be taken as the greater policy limit if that policy limit at the time of the event that gives rise to a claim, was not available to AusNet Services for reasons beyond its control;</del></li> </ol> </li> <li>4. a relevant insurance policy is an insurance policy held during the 2017–22 regulatory control period or a previous regulatory control period in which AusNet Services was regulated.</li> </ol> <p>Note: <del>for the avoidance of doubt, in assessing an insurance cap event cost pass through application in making a determination on an Insurance Cap Event, the AER will have regard to, amongst other things:</del></p> <ol style="list-style-type: none"> <li>i. <del>the relevant insurance policy for the event; and</del></li> <li>ii. <del>the level of insurance that an efficient and prudent TNSP would obtain in respect of the event; and</del></li> <li>iii. <u>any assessment by the AER of AusNet Services' insurance in making its transmission determination for the relevant period.</u></li> </ol>
Natural disaster event	<p><del>A natural disaster event occurs if:</del></p> <p><u>Natural Disaster Event means any natural disaster including but not limited to any major fire, flood or earthquake or other natural disaster that occurs during the 2017-22 regulatory control period and materially that increases the costs to AusNet Services in providing prescribed transmission services, provided the fire, flood or other event was not a consequence of the acts or omissions of the service provider.</u></p> <p><del>The term 'major' in the above paragraph means an event that is serious and significant. It does not mean material as that term is defined in the Rules (that is 1 per cent of the TNSP's annual revenue requirement for that regulatory year).</del></p> <p>Note: In assessing a Natural Disaster Event pass through application, the AER will have regard to, amongst other things:</p> <ol style="list-style-type: none"> <li>(i) whether AusNet Services has insurance against the event; <u>and</u></li> </ol>



Proposed event	AER draft decision definition
	<p>(ii) the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and</p> <p>iii. <del>whether a relevant government authority has made a declaration that a natural disaster has occurred.</del>"</p>

In respect of the Insurance Cap Event, the effect of these amendments is to recognise that the approved operating expenditure in a transmission determination may not unambiguously imply a particular level of insurance cover. We have therefore removed this limb from the definition, and added a note that we will take into account, where relevant, any assessments or analysis we have undertaken in relation to insurance when making our final decision on total forecast opex. The revised definition also removes the reference to an event 'materially' increasing costs, to avoid any confusion with the materiality threshold applying to all pass through events.

In respect of the Terrorism Event, these amendments again remove the reference to an event 'materially' increasing costs, to avoid any confusion with the materiality threshold applying to all pass through events. They also remove circularity in the definition and notes on the factors we may have regard to in assessment of a pass through application.

In respect of the natural disaster event, these amendments remove the adjectives 'major' and 'materially' from the definition - this will avoid any confusion with the materiality threshold applying to all pass through events. We have also removed the reference to whether a government authority has declared an occurrence to be a natural disaster. This consideration received criticism in other regulatory processes on the basis it could create uncertainty and introduce irrelevant considerations. While we do not believe these concerns are well founded, we are satisfied it is unnecessary to refer to it explicitly in the definition.

### 13.4.3 Decommissioning of Point Henry – Geelong Terminal Station 220kV Lines Event

Our draft decision does not accept AusNet Services' proposed Decommissioning of Point Henry – Geelong Terminal Station 220kV Lines Event.

We are not satisfied that this nominated pass through event is consistent with the nominated pass through event considerations because the event is triggered by a requirement imposed by a relevant authority. It is therefore likely covered by either the prescribed service standard event or regulatory change event.<sup>31</sup>

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<sup>31</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations' cl. (a) and definitions of 'regulatory change event' and 'service standard event'; NEL, s. 2D—Meaning of regulatory obligation or requirement.

### 13.4.4 Confidential nominated pass through event

Our draft decision does not accept the confidential nominated pass through event proposed by AusNet Services.

We are not satisfied that this nominated pass through event is consistent with the nominated pass through event considerations because:

- The nature or type of event has not been clearly identified.<sup>32</sup> On the basis of the information AusNet Services has provided in its proposal, the nature of this event could vary considerably depending on AusNet Services' choices within the regulatory control period.
- A prudent service provider could reasonably prevent an event of this nature or type from occurring or substantially mitigate the cost impact of such an event:
  - The event is foreseeable. We do not accept AusNet Services' submission that it is not possible to predict the likely timeframes for this event.
  - The event is controllable. The risk that AusNet Services' seeks to address through this event relates to costs that AusNet Services is better placed to manage than its customers. The nature and impact of the event will result from AusNet Services' decision on its preferred option to address those risks, allowing AusNet Services to substantially mitigate its cost impact.<sup>33</sup> Inclusion of a nominated pass through event for this risk weakens the incentive AusNet Services would otherwise have to choose the most prudent and efficient option.
  - AusNet Services' proposal includes forecast opex that addresses this risk in whole (in the case of one possible scenario) or in part (in the case of another).<sup>34</sup> Inclusion of a nominated pass through event for this risk weakens the incentive AusNet Services would otherwise have to manage its risk within, or outperform, that forecast.

Our reasons for our draft decision on this nominated pass through event are set out in full in confidential appendix 13A.

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<sup>32</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations', cl. (b).

<sup>33</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations', cl. (c).

<sup>34</sup> NER, Chapter 10: Glossary, definition of 'nominated pass through event considerations', cl. (c).