AUSTRALIAN ENERGY REGULATOR

Our Ref: 201179
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31 March 2021

Dear stakeholders

Re: AER guidance note to support efficient delivery of actionable ISP projects

Today we have published a guidance note as part of our work program to support the efficient and timely delivery of large transmission projects, identified as 'actionable' in AEMO's Integrated System Plans (ISPs). Our guidance note clarifies the regulatory process and our expectations of transmission network service providers (TNSPs). It seeks to improve the predictability of how we will assess the costs of these large, actionable projects under the regulatory framework, whilst promoting flexibility, transparency and reducing uncertainty. We expect it to increase confidence in TNSP cost forecasts and their delivery of these projects so that consumers, who ultimately fund these investments, pay no more than necessary.

We have engaged closely with stakeholders to develop this guidance note and we have welcomed the input and feedback we have received as well as the support for its development. We commenced this work program with a report we commissioned from HoustonKemp and letter in November 2020, followed by stakeholder focus group sessions. In December 2020, we published our draft guidance note for consultation with stakeholders, inviting submissions and feedback, and held a forum on 28 January 2021.

This letter accompanies the finalised guidance note. Attached to this letter is a summary of the issues raised by stakeholders, our responses to those issues, and an explanation of how we have amended the guidance note in light of stakeholder feedback. It also discusses those issues raised by stakeholders that we were not able to address through this guidance note and why.

Our guidance note

The guidance note collates and builds upon our learnings from recent contingent project applications for transmission projects, the stakeholder input and feedback we received, and the experiences of delivering large infrastructure projects in other sectors.

This guidance note covers:

- The **contingent project application** (CPA) assessment process through which cost forecasts for actionable ISP projects are typically assessed. This section clarifies what we expect TNSPs to demonstrate for our CPA assessment, to increase confidence in the quality of their cost forecasts and how they have assessed and managed risk.
- CPA **staging**, to clarify how we will approach and consider sequencing actionable ISP projects through staged CPAs. This section sets out how staged CPAs can be used in some circumstances to help TNSPs understand and manage project risks better and reduce uncertainty around their cost forecasts.

- The **ex-post measures** that may apply to capital expenditure forecasts that contain actionable ISP project costs. This section provides greater predictability about how we may undertake ex-post reviews that can result in exclusions of capex from the roll forward of the regulatory asset base (RAB), in limited circumstances.

The guidance note seeks to reduce uncertainty associated with actionable ISP projects and promote efficient and prudent expenditure forecasts for actionable ISP projects. It does this through encouraging proactive risk management in the planning and design stage, and innovation and competition in the procurement process. The guidance note also seeks to recognise that outturn costs can differ from those forecast and still be efficiently and prudently incurred, particularly in circumstances where risks are genuinely unforeseen and minimised through strong project controls and governance arrangements. We consider this will contribute to outcomes in the long term interest of consumers.

Our intention is to periodically update the guidance note as we and TNSPs learn from the experiences of assessing and delivering actionable ISP projects.

Other reform work

In addition to developing this guidance note, our initial work program letter identified some other potential areas of reform to explore, over the medium to longer term. These areas included:

- changes to the CPA and Regulatory Investment Test for Transmission (RIT-T) processes to allow for a more robust assessment of project benefits, more reliable project cost estimates, enhanced stakeholder input and a streamlined process.
- changes to improve the incentives for actionable ISP projects to be delivered efficiently and risk allocation.
- introducing more competition through sponsor-based competitive tendering to deliver greater productive efficiencies through more innovative solutions, and reduce the need for regulatory assessment of expenditure forecasts.

These other potential reforms could be significant and would require changes to the regulatory framework, energy laws and rules, involving other decision-makers and taking longer to implement. They would also result in significant changes to the current arrangements and the various roles of market participants. As such, it is important to understand the benefits and costs of such reforms, and the circumstances that would be required to ensure the benefits were realised.

The AEMC has recently advised it intends to conduct a review, together with the market bodies, to consider options to support the timely and efficient delivery of large transmission projects.[1] The AEMC is still determining the scope of its review and has flagged that it will include matters such as financing, regulatory and governance issues and has the potential to consider alternative solutions, such as contestability, incentive arrangements and the assessment of the costs and benefits of ISP projects proceeding or otherwise. The AEMC will also be considering a rule change request that examines potential changes to the operation of the RIT-T so the AER can determine that a project proponent must reapply the test where there is a material increase in costs.[2]

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1 See AEMC, Draft rule determination: Participant derogation – financeability of ISP projects, 4 February 2021, p. vi.

2 See AEMC, Material change in network infrastructure project costs rule change request (pending)

We intend to progress our thinking on these other reform areas by contributing to the AEMC's review and its consideration of the RIT-T rule change. This will minimise duplication of effort by market bodies and stakeholders in considering these issues. We are working closely with the market bodies to consider these reforms and we have shared with the AEMC the issues raised by stakeholders through this consultation process to inform their broader review. Our aim is to ensure a coordinated work program across market bodies to streamline the consultation burden for stakeholders.

We look forward to continuing to work collaboratively with the AEMC, AEMO and stakeholders on these important matters.

Yours sincerely

Jim Cox
Deputy Chair
Australian Energy Regulator

Attachment – Summary and responses to stakeholder feedback

This attachment sets out our summary of, and responses to, stakeholder feedback provided through written submissions (or alternative formats) and the stakeholder forum we held on 28 January 2021.

We received 10 written submissions on the draft guidance note from the following stakeholders. All submissions have been published on our website:

1. Energy Networks Australia (ENA)[3]
2. Energy Users Association of Australia (EUAA)[4]
3. ERM Power (ERM)[5]
4. Major Energy Users (MEU)[6]
5. Origin Energy (Origin)[7]
6. Public Interest Advocacy Centre (PIAC)[8]
7. Spark Infrastructure (Spark)[9]
8. TasNetworks[10]
9. Tesla[11]
10. TransGrid.[12]

This summary has been organised by guidance note topic: CPA process, CPA staging, and ex-post measures for actionable ISP projects. It also contains our responses to issues raised by stakeholders that we are not able to address through this guidance note, including where stakeholders proposed changes to the regulatory framework, which would require a rule change.

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3 ENA, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
4 EUAA, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
5 ERM, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
6 MEU, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
7 Origin, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
8 PIAC, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
9 Spark, Submission to AER draft guidance note on regulation of actionable ISP projects, 5 February 2021.
10 TasNetworks, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
11 Tesla, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.
12 TransGrid, *Submission to AER draft guidance note on regulation of actionable ISP projects*, 5 February 2021.

Table 1: Stakeholder feedback relevant to the overall guidance note, or multiple areas

Topic	Summary of stakeholder feedback	AER response
Intent and purpose of the guidance note	Stakeholders supported our development of the guidance note to improve the predictability and transparency of the regulatory process for actionable ISP projects. (ENA, p. 1, EUAA, p. 1, ERM, p. 1, MEU, p. 2, Origin, p. 1, PIAC, p. 1, Spark, p. 1, TasNetworks, p. 1, TransGrid, p. 1) EUAA and MEU considered the guidance note is particularly important in the context of recent cost increases for actionable ISP projects through the transmission planning and regulatory processes. (EUAA, p. 1, MEU, p. 2) ERM supported the focus on undertaking activities to manage risks and increase cost certainty, and generally supports the concept of CPA staging. (ERM, p. 1) Origin considered the guidance note will likely improve the regulatory process for large projects, particularly around how costs are estimated, risks managed and updates communicated to the public. (Origin, p. 1) TasNetworks commended adding clarity to expectations around stakeholder engagement, risk management, governance arrangements and procurement processes. TasNetworks considers that, given the actionable ISP framework is new, continuing to improve the transparency of the AER's regulatory assessment process and criteria has the potential to add significant further value for process efficiency and end outcomes for electricity customers. (TasNetworks, p. 1)	We welcome stakeholder support for the guidance note in increasing predictability and transparency of the regulatory process for actionable ISP projects. Our focus is on encouraging TNSPs to proactively identify and manage project risks, to engage with stakeholders and to clearly explain in their CPA how they have arrived at their capex forecast and why they consider it is prudent and efficient (including their procurement approach and sharing of risks with contractors). The actionable ISP framework is relatively new and we agree it is important to continue to improve the transparency around our regulatory assessment as TNSPs and the AER gain more experience with actionable ISP projects. We intend to update the guidance note periodically with lessons learnt from the experiences of assessing and delivering these projects. PIAC suggested amending the purpose of the guidance note to include having regard to the benefits of a project as well as its costs. We recognise the importance of consumers having confidence that the actionable ISP projects are beneficial for consumers, given that they ultimately fund them. AEMO's ISP is the key mechanism for ensuring that only beneficial investments are progressed. In preparing each ISP, AEMO consults on the scenarios, inputs and assumptions used in its forecasting and planning activities to develop the optimal development path and actionable projects.[13] AEMO then undertakes a cost benefit analysis of projects to ensure it recommends an optimal development path that optimises net market benefits in the long-

[13] NER 5.22.8(a) requires AEMO to develop, consult and publish an Inputs, Assumptions and Scenarios Report to be used for the ISP.

	PIAC agreed with the purpose of the guidance note. However, considers it essential to have regard to both the estimated cost and net benefits in determining whether a project has a good return on investment for consumers, and would contribute to achieving the National Electricity Objective (NEO). PIAC recommends amending the purpose of the guidance note to explicitly reflect this. (PIAC, p. 1)	term interests of consumers. AEMO's 2021 ISP methodology Issues Paper[14] seeks feedback on a proposal for how AEMO could confirm that each actionable ISP project makes a positive contribution to the net economic benefit in the most likely scenario using the 'take one out at a time' (TOOT) analysis. The aim of the TOOT analysis is to determine a project's incremental market benefit. This analysis may form part of AEMO's 'feedback loop'. Under the NER, TNSPs must ensure that the cost of the preferred option set out in their CPA is no greater than the cost considered in AEMO's assessment in the feedback loop. In contrast, our role and this guidance note focuses on providing additional clarity on how the AER will determine the expenditure and incremental revenue a TNSP requires to deliver an actionable ISP project, where it has met the triggers (including the feedback loop cost cap) and following our assessment of its CPA (or staged CPAs). It also provides further clarity on our approach to ex-post measures. Given this, we have not amended the purpose of the guidance note to include having regard to the benefits of a project as well as its costs.
Flexibility of the guidance note	ENA and TasNetworks consider it important that the guidance note is fit for purpose, proportionate and can be scaled to accommodate a range of project sizes. Some actionable ISP projects are smaller projects (e.g. a minor upgrade to an existing interconnector) and do not warrant the full approach in the draft guidance note. TasNetworks considers that the guidance note should maintain sufficient flexibility to accommodate considerations that are unique to each project. ENA and TasNetworks note that more flexibility is also needed in specific areas of the guidance note, which are discussed in Table 2. (ENA, p. 2, TasNetworks, p. 3) ENA recommends the guidance be limited to large greenfield ISP	We have clarified in section 1.1 and 2 of the guidance note that we expect TNSPs will follow the guidance note in preparing their CPAs. We have also clarified that the guidance is principles-based and provides flexibility for TNSPs to accommodate different approaches for different ISP projects when preparing their CPAs. Where a TNSP decides to depart from this guidance, we expect them to explain their rationale for the alternative approach. The guidance note sets out our key considerations in approaching our regulatory assessment of actionable ISP projects under the economic regulatory framework and our expectations of TNSPs. We have set out our intention to follow the guidance in conducting our CPA assessments and ex-post measures, unless we consider there are good reasons not to.

[14] https://www.aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem-consultations/2021/isp-methodology/isp-methodology-issues-paper.pdf

	projects, or alternatively, TNSPs engage with the AER upfront on a more proportionate response for specific projects. (ENA, p. 2)	Where this is the case, we will be open and transparent, explaining any departure and our rationale for it, as well as considering any responses. We respond to comments from the ENA and TasNetworks on the level of prescription of specific areas of the guidance note in Table 2.
Application of the guidance note	Several stakeholders commented on how the guidance note would apply in different jurisdictions and across different transmission projects, as well as how we would apply the guidance note to TNSPs. ENA recommended we note that the guidance note does not apply in Victoria due to the contestable framework for transmission augmentations, and may not apply to states where governments have opted out of certain aspects of the NER and AER oversight. (ENA, p. 2) EUAA encouraged us to expand the coverage of the guidance note to non-ISP projects. The EUAA also supported the guidance note applying to non-network projects given the ISP will be comparing network and non-network options. (EUAA, p. 5) EUAA encouraged us to apply a comprehensive and detailed interpretation of our expectations in the guidance note, noting it is not binding. Similarly, MEU considered we should make it clear that we 'expect' TNSPs to follow the guidance note. MEU considered an "expectation of compliance" is greatly preferable to an "encouragement to comply". (EUAA, p. 5, MEU, p. 2)	We have clarified section 1.1 of the guidance note to reflect that: • the guidance note provides information about how we intend to assess expenditure associated with actionable ISP projects under the economic regulatory framework set out in chapter 6A of the NER, and which forms part of TNSPs' maximum allowed revenue. It also clarifies that this would not apply to actionable ISP projects that are procured under different arrangements, such as the Victorian framework where these are competitively procured by AEMO or where jurisdictions adopt alternative frameworks. • the guidance note applies to actionable ISP projects, which can be network or non-network options, or staged or fully 'unified' projects. We have developed the guidance note specifically for large actionable ISP projects in light of the challenges associated with these projects, as set out in our work program letter.[15] TNSPs are able to apply this guidance to CPAs for non-ISP projects. Section 1.1 and 2 of the guidance clarifies our expectations that TNSPs will follow the guidance and provides for flexibility to accommodate the characteristics of different ISP projects. It also sets out that where a TNSP does not provide an explanation for any departures from the guidance, we are less likely to be convinced that the forecast expenditure is efficient and prudent. This may result in us making an amendment to the TNSP's revenue determination that is less than what is sought in the

[15] AER, Work program to support efficient delivery of actionable ISP projects, 17 November 2020.

		CPA. Alternatively, we may ask the TNSP for further information or to undertake further activities to refine its cost estimates in accordance with any aspect of this guidance.
Regulatory burden	ENA considered it important that the regulated approach, which provides robustness and transparency, is not bypassed because of the regulatory burden that may be caused. (ENA, p. 2) EUAA also considered there will be some increase in the 'regulatory burden'. However, it considered this is well worth the additional effort and cost in the TNSPs regulated revenues. The cost is miniscule compared with the potential for reduced capital costs and stranded assets that consumers will bear. (EUAA, p. 2)	We do not consider our guidance note would materially increase the regulatory burden on TNSPs beyond our existing expectations, based on experience with assessing recent transmission CPAs, and standard business practice for large infrastructure projects. The guidance note makes clear our expectations of the matters TNSPs should consider in preparing their CPAs and the information we expect them to include so we can make our determination. This will promote higher quality CPAs from TNSPs as well as a more streamlined assessment process, reducing the need for ad hoc information requests.
Consistency between AER and AEMO work	ENA and MEU encouraged coordination and consistency between the guidance note (and broader AER work program) and AEMO's ISP work, including its Transmission Cost Database. ENA noted there is benefit if the AER and AEMO processes are complementary, particularly in the context of risk management approaches. MEU considered the AER can assist in improving ISP cost forecasts by ensuring that the Transmission Cost Database incorporates data from completed actionable ISP projects, collected through the AER's ex-post review process. (ENA, p. 4, MEU, p. 4)	Both the AER and AEMO agree with this suggestion and have been liaising to promote consistency and coordination between the guidance note and AEMO's ISP processes, including its Transmission cost database. We will continue this work going forward.
Non-network options	EUAA support the guidance note applying to non-network projects given the ISP will be comparing network and non-network options. EUAA note the same issues of transparency, engagement, project management, risk identification and so on apply to non-network solutions (EUAA, p. 5). Tesla recommended including specific provisions for non-network options in the guidance note. It considered this is still aligned with the overarching objectives of the guidance, namely to support the efficient and timely delivery of projects, and to ensure consumers pay no more than necessary for them. (Telsa, p. 1) In the focus groups we held in November 2020, stakeholders asked whether specific considerations were needed in the guidance note around	We have clarified in section 1.1 that the guidance note applies to actionable ISP projects that are network and non-network solutions. The principles and considerations in the CPA guidance are applicable to non-network projects. We considered whether there are any cost forecasting issues specific to non-network options raised in Tesla's submission that could be included in the guidance note. We have updated section 2.7 to expect that cost estimates will be based on up-to-date information and/or data and that this is particularly important where cost estimates risk becoming outdated due to rapidly evolving external factors, such as the falling cost of technologies (e.g. battery storage

	non-network options. In releasing the draft guidance note, we noted that we were continuing to consider this and were interested in stakeholder views on this matter.[16] Origin and Tesla recommended we assess, as part of the broader work program, whether non-network options have equal treatment in the transmission planning and regulatory processes. Origin considered there is no formal mechanism to reassess the role of non-network options in contributing to a credible option, even when the costs of the network solution have risen substantially. This is of particular concern given the variability of transmission costs for large projects. (Origin, p. 1) Similarly, Telsa considered there are still barriers preventing non-network solutions achieving 'preferred option' status under the transmission planning framework. It considered some barriers may relate directly to the framework itself, whilst others arise due to misinterpretation and unfamiliarity that TNSPs may have with the assessment of non-traditional solutions such as battery storage. In Telsa's view, we have an important role to help address both. Telsa recommended additional clarity and transparency on how the framework is applied, to at least ensure non-network options are assessed against network options on an equal footing, supporting the economic efficiency principles underpinning the RIT-T and CPA processes. (Tesla, pp. 1-2) Tesla recommended steps for overcoming the barriers it sees for non-network options under the RIT-T, including that the AER release guidance on cost benefit modelling for non-network options under the RIT-T process (Tesla, p. 4).	technology). We have not identified any other specific principles or expectations for CPAs that involve non-network solutions at this stage. We acknowledge Origin and Tesla's concerns around the treatment of non-network options under the cost benefit assessment at the RIT-T stage. However, the guidance note focusses on the CPA and ex-post measure processes in the NER. At this stage of the transmission planning and regulatory processes, the preferred project option has already been assessed through the ISP and RIT-T. As such, the guidance note does not impact how the preferred option is selected from the range of options considered through the RIT-T. The AEMC has advised it intends to conduct a review, together with the market bodies, to consider options to support the timely and efficient delivery of large transmission projects, including the role of contestability.[17] It will also be considering a rule change that examines whether the AER should be able to make a determination to have a project proponent reapply the RIT-T where there is a material increase in network infrastructure costs.[18] We will liaise closely with the AEMC on these matters and intend to share the issues raised by stakeholders through this consultation with the AEMC to help inform their broader work. A sponsor-based competitive tendering model,[19] under which the preferred solution to an identified need is selected through a competitive solicitation process, may address some of the concerns raised by Origin and Tesla in their submissions. The electricity network economic regulatory framework is designed to promote efficient expenditure decision making. In

16 See AER, Covering letter to the draft guidance note to support efficient delivery of actionable ISP projects – for consultation, 18 December 2020, p. 3.

17 See AEMC, Draft rule determination: Participant derogation – financeability of ISP projects, 4 February 2021, p. vi.

18 See AEMC, Material change in network infrastructure project costs rule change request (pending)

19 See HoustonKemp, Regulatory treatment of large, discrete electricity transmission investments: A report for the Australian Energy Regulator, August 2020, p. 67.

		particular, under the capital expenditure sharing scheme (CESS) and efficiency benefit sharing scheme, networks have a continuous positive incentive to make both operating expenditure and capital expenditure efficiency gains, balanced by an incentive to maintain service quality under the service target performance incentive scheme. The framework has recently been supplemented with the introduction of the demand management innovation allowance for TNSPs. This scheme provides funding for TNSPs to expand and share their knowledge of innovative demand management projects (including non-network options) that have the potential to reduce long term network costs.
Risk treatment and allocation	Stakeholders provided a range of different views about how risks associated with actionable ISP projects should be allocated/shared between TNSPs and consumers. Several stakeholders recommended we increase transparency on how risks are allocated between TNSPs and consumers in the regulatory framework. (EUAA, pp. 8-9, MEU, p. 4, Spark, pp. 2-3) Most stakeholders appear to accept that actionable ISP projects are more uncertain than business as usual (BAU) transmission projects, and that large infrastructure projects have a greater risk of cost overruns. Stakeholders differ in their views on how to manage this risk through the regulatory framework and guidance note. Consumer representatives and generator stakeholders consider that consumers bear the majority of risk associated with actionable ISP projects, including cost overruns and underutilisation of assets. These stakeholders have recommended more accurate cost estimates at the CPA and RIT stages to reduce the risk of cost overruns and erosion of net benefits. They have also recommended TNSPs bear the remaining risk of cost overruns (post-CPA) through a stronger ex-	In our work program letter, we noted that some actionable ISP projects may face more uncertainty in their costs and benefits than BAU transmission projects, and may be more prone to cost overruns. We also recognised that many project risks can be managed by TNSPs, and there are existing mechanisms in the regulatory framework that provide an efficient allowance for TNSPs to manage these risks and allow TNSPs to pass through risks in certain circumstances that are beyond their reasonable control.[20] Our guidance note highlights the key principle that project risks should be held by the party best able to manage them. It seeks to reduce actionable ISP project risk for consumers and TNSPs. It does this by encouraging TNSPs to undertake activities that promote proactive risk identification and management, and to clearly explain in their CPA how they have arrived at their capex forecast and why they consider it is prudent and efficient (including their procurement approach or using staged CPAs, and sharing of risks with contractors). This should increase the efficiency and accuracy of cost forecasts, and reduce the likelihood of cost overruns for actionable ISP projects.

[20] AER, Work program to support efficient delivery of actionable ISP projects, 17 November 2020, pp. 4-6.

post review process. The specific recommendations are discussed below: 'Cost increases from ISP / RIT-T stages', 'Accuracy of cost estimates' and 'Objectives of ex-post reviews'. (EUAA, ERM, MEU, Origin, PIAC)

Network businesses and investor stakeholders consider that TNSPs bear a higher risk with actionable ISP projects than BAU projects, because they are less able to absorb cost overruns for these large projects within their capex allowance, and are exposed to the CESS and ex-post review. These stakeholders consider this should be recognised in the guidance note, and have recommended more compensation for project risks, including via pass throughs or true ups for certain uncontrollable risks (see below). They have also recommended more reassurance that efficient cost overruns will be rolled into the RAB through the ex-post review process. Overall, they seek to ensure risk allocation and sharing under the regulatory framework is the same between actionable ISP projects and BAU projects. Related recommendations are discussed below: 'Risk allocation – risk costs and sharing' and 'Ex-post reviews – alternative approaches'. (ENA, Spark, TasNetworks, TransGrid)

ENA, Spark and TransGrid suggested an alternative approach to treating risks associated with actionable ISP projects. Spark and TransGrid recommended enabling the TNSP to propose the appropriate cost recovery mechanism for higher risks associated with actionable ISP projects based on the nature of the risk. Options for recovery could include a specific allowance for the estimated cost of the risk, enabling variations (over or under) to be passed through or nominating particular risk costs for cost pass through. TransGrid elaborated on this by noting there could be a mix of the following:

- an ex-ante allowance based on expected risk cost
- a pass-through mechanism for actual capex incurred for

Our guidance note supports the existing incentive based economic regulatory framework, which allocates/shares risk and rewards between consumers and TNSPs. We consider these mechanisms remain appropriate for these large actionable ISP projects:

- The TNSP can incorporate identifiable residual risk costs into the risk cost allowance its CPA (see section 2.6 of the guidance note). Where risks are associated with events outside the TNSP's reasonable control, the TNSP can recover the efficient costs through the cost pass through mechanism, provided they fall within certain classes of events[21] and meet a materiality threshold (see NER, clause 6A.7.3).
- If there is a cost overrun, the TNSP still has options to re-prioritise and/or defer capex to remain within its capex allowance—even if this is more challenging for larger projects and/or larger cost overruns. We also note that while there are risks that increase project costs during delivery, there are also risks and efficiencies that decrease project costs.
- If the TNSP does overspend its capex allowance, the CESS allocates more of the efficiency loss to consumers than TNSPs, because the sharing ratio is 30:70. The ex-post review is a last resort check, which would only exclude clear cases of inefficient capex from the RAB.
- If benefits are not realised, TNSPs are still able to recover their capital costs plus a commercial return on capital, as the RAB cannot be optimised. As such, consumers bear this risk.
- Staging of projects, or CPAs, is also another way TNSPs can manage uncertainty with large actionable ISP projects, or to help estimate unknown costs. This is because as each stage

[21] The TNSP can nominate pass through events in its revenue proposal for the next regulatory control period, for the AER to consider: NER, rule 6A.7.3(a1)(5).

unforeseeable and unquantifiable cost risks

- a true-up for the variance between forecast and actual costs, for costs such as environmental offset costs, biodiversity costs and compulsory land acquisition costs. These costs are typically determined by a third party regulator or government agency based on the specific nature of the project. (Spark, p. 1, TransGrid, pp. 2-3)

ENA also considered some costs, which are outside of the TNSP's control, may be better managed by isolating these costs and enabling the actual costs to be passed through. ENA considers that, trying to accurately estimate unknown costs outside of the TNSP's control may result in a poor outcome, either for consumers or for the TNSPs. (ENA, pp. 4-5)

TransGrid similarly noted our risk approach focuses on the management of known risks. TransGrid is concerned there are currently no mechanisms to address unforeseeable and unquantifiable cost risks that are likely to arise in the delivery of actionable ISP Projects, given their characteristics. TransGrid recommended the AER examine options to reform the regulatory framework for the treatment of cost risks as part of its broader work program to ensure that TNSPs can recover the actual efficient costs that they incur. (TransGrid, pp. 2-3)

progresses, it can reveal important project information and reduce associated cost uncertainty.

We are open to TNSPs exploring other mechanisms within the existing rules and regulatory framework for more efficiently dealing with uncertainty and identified risks for which the forecasting error may be particularly significant.

Cost increases from ISP / RIT-T stages	Consumer representatives and generator stakeholders raised concerns about increases in actionable ISP project cost estimates through the transmission planning and regulatory processes, without sufficient corresponding checks and balances to ensure the projects continue to have net economic benefits. These stakeholders have recommended changes to our draft guidance note and broader work program to address this issue. (EUAA, ERM, MEU, Origin, PIAC) EUAA, ERM and MEU considered the current checks and balances (that is, the material change of circumstances provisions under clause 5.16A.4(n) of the NER and the ISP feedback loop) are insufficient. They consider this clause is not effective because it is at the discretion of the TNSP. Similarly, EUAA is concerned that the decision to have a project be assessed by AEMO in the feedback loop is also at the discretion of the TNSP (EUAA, p. 8). Further, it is unclear how AEMO propose to undertake and engage with stakeholders on the feedback loop; and the feedback loop only has the potential to ensure the total cost of an actionable ISP project remains below the maximum cost at which meeting the identified need remains on the optimal development path. (EUAA, pp. 7-8, ERM, pp. 1-2, MEU, pp. 2-3) EUAA recommended the guidance note include consideration of net benefits to ensure contingent project and ex-post review decisions are consistent with the NEO. Without a focus on these areas, it considered the guidance note may end up being used to efficiently implement inefficient projects. (EUAA, pp. 1-2, 5) MEU also considered that we need to ensure that an actionable ISP project, in its standalone form and with accurate assessments of costs and benefits, still delivers a net benefit in its own right, exclusive of the outcome of the "feedback" loop.	We recognise stakeholders' concerns in this area and the importance of consumers having confidence that actionable ISP projects deliver benefits to consumers, given that they ultimately fund them. The ISP framework was agreed by COAG Energy Ministers, who saw the need for more integrated whole-of-system planning to manage the energy market transition. AEMO is responsible for delivering the ISP, and a number of governance arrangements were put in place to support/oversee this, such as AER guidelines, the AER transparency review, the ISP Consumer Panel, and dispute resolution processes. Key mechanisms have been included under this framework so that only beneficial investments are progressed. This includes AEMO's actions to: • consult on its ISP methodology as well as the scenarios, inputs and assumptions used to develop the optimal development path and actionable projects • undertake cost benefit analysis of projects to ensure the optimal development path optimises net market benefits in the long-term interests of consumers, in accordance with the AER's guidelines[22] • seek stakeholder feedback on its proposed TOOT analysis, including as part of the feedback loop cost cap, which, if implemented, would confirm that each actionable ISP project makes a positive contribution to the net economic benefit in the most likely scenario. Following AEMO's ISP whole-of-system cost benefit and proposed TOOT analyses, the TNSP's RIT-T analysis considers an individual project's cost benefit analysis that incorporates more detailed local knowledge and technical information. The

[22] AER, *Cost benefit analysis guidelines to make the ISP actionable*, August 2020.

	Further, if there have been significant cost rises between the RIT-T and CPA stage, stakeholders should have the opportunity to assess that the project still delivers a net benefit and provide input to the AER deliberations for the CPA. (MEU, pp. 3-4) ERM and Origin recommended changes to the actionable ISP framework to address project cost increases. ERM recommended: • For actionable ISP projects over a certain cost threshold, require the TNSP to submit a 'preliminary works' CPA (CPA1), and subsequently undertake additional work to improve the RIT-T cost estimates to an Association for the Advancement of Cost Engineering (AACE) - Class 1 level. • Before submitting a full-project CPA (CPA2), if there has been an increase in costs from the finalised RIT-T, require the TNSP to consult on and justify why the CPA project is still the most efficient outcome. This may involve the TNSP re-applying relevant parts of the RIT-T. • When assessing CPA2, require the AER to assess the TNSP's justification of whether the CPA project is still the best option compared to the other options considered in the RIT-T. If it is, assess CPA2. If not, require the TNSP to conduct preliminary works on the next best RIT-T option. • After conducting the relevant preliminary works for the next best RIT-T option, require the TNSP to re-submit a CPA2 for its preferred option. The AER would then make a CPA2 determination based on the most efficient option. (ERM, p. 3) Similarly, ERM considered that requiring a more accurate cost estimate (e.g. an AACE Class 1 or 2 estimate) during finalisation of the RIT-T process would help to more accurately assess the net economic benefit of projects. (ERM, p. 3)	AEMO feedback loop, potentially including further TOOT analysis, will perform a final check that the project (and its costs) are beneficial and aligned with the optimal development path. This is a 'trigger event' that must be satisfied before a TNSP can lodge a CPA with the AER. If forecast project costs change significantly after the RIT-T application, this may constitute a material change in circumstances, which may require a reapplication of the RIT-T under clause 5.16A.4(n) of the NER. In our guidance note we included the expectation that TNSPs will engage with stakeholders, prior to lodging their CPA, on any significant changes in the project's forecast costs from those provided at the RIT-T stage. In doing so, the TNSP should demonstrate how the changes in the project's costs are in the long term interests of consumers (see section 2.2). Our guidance note focusses on, and is designed to support, the CPA and ex-post measures processes under Chapter 6A of the NER, and does not apply to the RIT-T process that precedes the CPA. Furthermore, changes to the regulatory framework are implemented through rule change requests considered by the AEMC. We note that the AEMC will be considering a rule change request on the operation of the RIT-T, which will explore these issues.[23] We agree that it is important for TNSPs to explain to stakeholders, including consumers, the reasons for changes in costs as the project evolves as well as the accuracy of (or range of uncertainty around) any cost estimate. We have included these expectations in section 2.2 of the guidance note, recognising that the AACE classification system provides a useful and consistent framework. This will assist stakeholders in considering how the cost estimates have been prepared and form a view on any

[23] See AEMC, Material change in network infrastructure project costs rule change request (pending)

	Origin suggested, as an example of improvement in this area, requiring the RIT-T to be updated if transmission cost estimates rise above a certain threshold during the regulatory and approval process. Another example could be to require RIT-Ts that have been completed well ahead of construction dates to be checked and updated if the costs are no longer accurate. Similarly, the AER could examine whether RIT-Ts could be required to be carried out closer to when augmentation is required. Concluding a RIT-T too early may lead to sub-optimal outcomes for consumers, particularly for projects that do not yet have an optimal timing. (Origin, p. 1) Conversely, Spark considered that given the AER review processes, the AEMO ISP process and feedback loop, asymmetrical risks and financial penalties, there is almost no likelihood that consumers will pay for investment that is ex-ante inefficient or costs that are ex-post inefficient. (Spark, p. 3)	further activities that may be warranted to improve the accuracy of the cost estimates.
Accuracy of cost estimates	Related to the risk allocation and cost increases issues raised by stakeholders, some stakeholders supported more accurate cost estimates in the CPA, enabled through a staged CPA process. MEU considered it is reasonable for consumers to expect a high level of accuracy in the expected costs of actionable ISP projects—a process that applies within capital intensive industries exposed to competition. This issue could be managed by having a staged approach to the CPA process, where project cost accuracy can be affirmed along with the expected market benefits before proceeding with the bulk of a project, allowing a project to be discontinued without too great a financial commitment. MEU considered the cost accuracy must be at the highest level (e.g. Class 1) at the CPA, as the project costs will be added to the RAB and recovered from consumers (MEU, p. 4) EUAA supported the AER specifying at least an AACE Class 2 or even Class 1 cost estimate as required for a CPA for an actionable ISP project. EUAA sees additional benefit to consumers participating in the proposed engagement to know	We agree there is benefit to stakeholders, including consumers, in knowing the range of uncertainty around any cost estimate as part of the TNSP's pre-lodgement engagement. We have included this in the guidance note (see section 2.2), which sets out our expectation that TNSPs indicate the level of accuracy (or uncertainty) of their forecast project costs when consulting with stakeholders. We note that the AACE classification system provides a useful and consistent framework for this. This will assist stakeholders in considering how the cost estimates have been prepared and to form a view on any further activities that may be warranted to improve the accuracy of the cost estimates. We do not consider it appropriate to specify an AACE class of cost estimate for CPAs. Through our assessment of a TNSP's CPA, we determine an additional revenue allowance that reflects the efficient cost for the project to be delivered. The regulatory framework then incentivises TNSPs to deliver the project within this allowance. This differs from AACE cost estimate classes, which contain an expected accuracy range that the project might fall between. Our guidance note focuses on the specific activities

	that they are being asked to review a Class 1 estimate. Given TNSPs can seek funding in their revenue proposal for early works, or do a staged CPA, they can access the resources to present consumers with a much narrower cost estimate. (EUAA, p. 10)	we expect TNSPs to undertake, including drilling down on project risk costs, to provide confidence that the amount they're seeking in the CPA is accurate and efficient. While the principles in the guidance note should promote Class 1 cost estimates, TNSPs have flexibility in how they prepare their CPA for each project, particularly as there may be certain activities that are not feasible or efficient to undertake pre-lodgement. How a TNSP estimates its CPA costs will inform our assessment as to whether those costs are accurate and efficient. TNSPs can incorporate early works costs in their expenditure forecasts, either through the regular five-yearly revenue determination process or through the CPA process. In some circumstances, TNSPs can also stage CPAs and submit an early works CPA before lodging a CPA for the remainder of the project. Performing early works activities can help reduce uncertainty associated with actionable ISP project costs and benefits, and improve the accuracy of expenditure forecasts.

Table 2: Stakeholder feedback relevant to the guidance on the CPA process (section 2)

Topic	Summary of stakeholder feedback	AER response
Stakeholder consultation - intent	Stakeholders, including both consumer and network representatives, support early and meaningful engagement to promote consumer confidence and improve the accuracy of forecast expenditure (PIAC, ENA, TransGrid, TasNetworks). While EUAA strongly supports the concept of pre-lodgement engagement, it considers that, in practice, the proposed level of engagement will not occur due to: • very limited resources available to consumer advocates, and	We understand EUAA's concerns around the capacity of consumer representatives to meaningfully engage in TNSPs' preparation of CPAs. This is a broader issue that relates to consumer groups' resourcing and capacity to engage in consultation processes more generally. We reference the AER's 'Consumer engagement guideline for network service providers' in the guidance note. This sets out our expectations of service providers to proactively build consumers'

	• very few advocates having the necessary skills, experience and time to engage in any detail around complex project matters (EUAA, pp. 2 and 6). EUAA encourages the AER to provide more detail around what it expects TNSPs to provide consumers to ensure they have the appropriate skills and resources to participate in this engagement. This could include: • specific training in project management, procurement etc. • sessional payments to participate in the engagement • funding to seek independent expert analysis of TNSP proposals • providing a deterministic standard for TNSP cost estimates (EUAA, p.7). To assist stakeholders in understanding the evolving costs of a project, ERM Power suggested the guidance note be amended to 'expect', rather than 'encourage', TNSPs to adopt consistent cost categories across the RIT-T and CPA stages for a project where possible (ERM Power, p. 1).	capacity to understand issues where complexity is hindering engagement.[24] We have updated section 2.2 of the guidance note to include an expectation that TNSPs adopt an approach that considers the resources and capacity of stakeholders to engage in the process. Whilst our principles-based guidance makes clear our expectations of TNSPs, it does not prescribe how they approach their CPAs. It provides flexibility to allow the TNSP to consider what is appropriate for each ISP project, including pre-lodgement engagement activities. To facilitate engagement on evolving project costs we have included in the guidance note an expectation that TNSPs explain the accuracy of (or uncertainty around) any cost estimate, as part of its pre-lodgement engagement, noting the AACE classification system can be a useful, consistent framework (see section 2.2). We have also updated the guidance note to expect TNSPs to tailor their communication of complex project detail to the specific audience, including a "lay audience" that may not have extensive experience and skills in complex transmission projects. Our guidance note maintains the approach of encouraging TNSPs to adopt consistent cost categorisations. We do not want to preclude TNSPs from adopting clearer or more appropriate cost categorisations in CPAs that follow their RIT-Ts. We intend to monitor this issue to assess whether further guidance would be beneficial, once TNSPs, the AER and stakeholders have more experience with the ISP framework and this guidance note.
Stakeholder consultation – consumer preferences	PIAC recommends the guidance note require TNSPs to demonstrate how their proposal meets consumer preferences. PIAC questioned the AER's wording that we "expect the TNSP to promote consumer confidence in the project," noting that this could suggest a process where the project is "sold" to consumers rather than the TNSP engaging meaningfully to establish what consumers'	We have amended the guidance note to expect the TNSP to demonstrate how its CPA 'endeavours to meet consumer interests, including how they have considered consumer preferences' (see section 2.2). This aligns more closely with the NEO and acknowledges that it may not always be possible for a TNSP to satisfy all consumer preferences in planning a project

[24] See AER, *Consumer Engagement Guideline for Network Service Providers*, November 2013, p. 8.

	preferences are and examining whether the project achieves these. PIAC considered it is more appropriate to expect TNSPs to demonstrate how their proposal meets consumer preferences (PIAC, p. 2).	due to the potential for competing project considerations, such as safety requirements or land approvals. We have added the expectation that TNSPs should demonstrate how they have considered consumer interests and preferences and explain why aspects of a project differ from those consumer preferences.
Stakeholder engagement – scale of approach	ENA notes that the level of additional engagement at the pre-CPA lodgement stage should be proportionate to the project; greenfield infrastructure development of a large scale needs more engagement than small projects on existing infrastructure, which do not directly impact individual properties and communities (ENA, p. 2).	We have adopted a principles-based approach to the guidance note to allow TNSPs flexibility in how they prepare their CPA. This allows TNSPs to adopt an approach that is proportionate to each project, including the approach to stakeholder engagement. We have amended the guidance note to reflect this (see sections 1, 2 and 2.2).
Stakeholder consultation – Balancing competing considerations	Network stakeholders commented on balancing stakeholder views and interests where they conflict with each other or with other elements of the project. ENA noted that interactions with landholders and the community are the responsibility of the relevant TNSP to manage (ENA, p. 2). ENA noted that the positions of local advocacy groups may not align with the ISP and regulatory cost/benefit processes. In particular, support from state and local government for generation and transmission projects will be crucial in garnering wider project support (ENA, p. 3). TasNetworks considers that stakeholder engagement outcomes need to be balanced against all other elements of a project and that demonstrating a measurable increase in consumer confidence may not always be an efficient outcome. There may be instances where a best practice engagement process may be unable to demonstrate a measurable increase in consumer confidence. TasNetworks proposes that, in such cases, a robust process should be considered sufficient (TasNetworks, p. 2).	We agree that interactions with landholders and the community are the responsibility of the relevant TNSP to manage. The guidance note sets out our expectations, and reflects that stakeholder engagement can help to identify and manage some project risks (see section 2.2). For example, engagement with communities to understand concerns around a greenfield project can help the TNSP to identify risks associated with route selection. We are cognisant of the potential for competing views around a project from different stakeholders. In our contingent project assessment, we will consider the stakeholder engagement undertaken by a TNSP and how it has considered the range of views elicited. We expect TNSPs to explain how they have considered and managed competing views or interests. We recognise that it may not always be possible to achieve or efficiently obtain a measurable increase in consumer confidence in the project. We have amended section 2.2 of the guidance note to expect the TNSP to demonstrate it has considered consumer interests and preferences, and explained why any aspects of the project differ from those consumer preferences.
Stakeholder consultation –	Networks stakeholders commented on the scope of issues to be consulted on with stakeholders at the stage of preparing their	The principles in the guidance on pre-lodgement engagement are intended to apply to the development of expenditure forecasts

scope of issues	CPAs, relative to earlier stages in the ISP framework. TransGrid notes that the focus of engagement through the CPA process is limited to the costs of delivering the project (TransGrid, p. 3). Spark recommends containing the scope of the pre-lodgement engagement matters to issues and information (including new information on costs and benefits) that have not already been the subject of the RIT-T process, or AEMO's ISP and feedback loop (Spark, p. 1). ENA similarly considers that, unless there is a material change in circumstance, engagement by the TNSP in the pre-lodgement CPA phase should be contained to issues that arise after the RIT-T has been completed (ENA, p. 3). TasNetworks recommends the guidance note reflect the holistic continuum of the project's wider stakeholder engagement activities in setting expectations for stakeholder engagement relevant to the development of a CPA. For example, where it remains relevant it may be appropriate for a TNSP to rely on earlier engagement processes to provide support to a CPA. (TasNetworks, p. 2).	contained in a TNSP's CPA. Unless appropriate, we would not expect a TNSP to re-engage on issues and information that has already been consulted on at earlier ISP or RIT-T stages for a project. TNSPs can demonstrate where it is appropriate to rely on earlier engagement processes to provide support to a CPA. Where there are changes in the project's scope, costs or circumstances for example, we would expect the TNSP to consult with stakeholders on the changes (or explain why they considered this was not necessary). We have amended section 2.2 of the guidance note to clarify this.
Early information sharing with the AER – TNSP Board commitment	ENA commented on the expectation in the guidance note that TNSPs share whether their Board has committed to proceeding with a project (subject to the CPA outcome) and whether financing for the project has been obtained. ENA noted that, prior to the CPA being submitted to the AER or during the AER's assessment of the application, businesses will be continuing to support the ISP project through the regulatory processes. The Energy Security Board and (former) Council of Australian Governments supported this model and its implementation in 2020. ENA considers that if we pursue this requirement in the guidance note, then we may need to consider staging our contingent project decision process also. (ENA, p. 3)	We have amended section 2.3 of the guidance note to clarify that we find it very useful for TNSPs to include information in their CPA that explains how their Board has considered the project and whether it has committed to proceeding with the project (including where this is subject to the outcome of the CPA) and whether financing for the project has been obtained.

Early information sharing – procurement approach	ENA supports early engagement with the AER on the procurement approach to be adopted for an ISP project (particularly as it seeks greater flexibility around the procurement approach a TNSP may adopt – see below) (ENA, p. 3).	We welcome the ENA's support for early information sharing. We have updated the guidance note (see section 2.3) to clarify that TNSPs do not need to confirm upfront with the AER their proposed approach to each project, including their approach to procurement. We welcome early information sharing on TNSPs' CPA planning and preparation activities, including procurement activities.
Procurement – efficiencies in design and scope	ENA commented on our expectation that the TNSP demonstrate how it has sought efficiencies in the design of the solution, including by sharing the functional specifications it intends to provide to the market. ENA considers that any functional specification issued to the market needs to consider whole of life costs and meet TNSPs obligations under state and national frameworks, including reliability, system security and resilience, rather than just a focus on upfront costs. Robust procurement and evaluation criteria will assess a range of factors in considering responses to the functional specification and the more detailed offers. Evaluation of offers will need to weigh up a broad range of issues regarding project delivery and ongoing asset management to ensure a reasonable price for the overall delivery. (ENA, p. 3) TasNetwork considers that while it is appropriate for a TNSP to demonstrate it has explored different design options before arriving at a preferred design of the solution, it is not necessarily the case that such innovation is always best achieved through a competitive tender process. For example, a best practice design choice may be identified through bilateral discussions with prospective supplier (TasNetworks, p. 3)	We have amended section 2.5.1 of the guidance note to reflect that TNSPs can consider a range of evaluation criteria, including project delivery, ongoing asset management, whole of life costs and TNSP obligations. Our guidance note uses a principles-based approach, which allows TNSPs flexibility in how they prepare their CPA, including their procurement approach. This allows TNSPs to adopt an approach that is proportionate and fit-for-purpose for each project. We have retained the expectation that TNSPs seek innovation in the design of the solution through the tender process. Where a TNSP considers this is not appropriate or chooses not to do this, we would expect the TNSP to explain this in the CPA and demonstrate why this is a prudent and efficient approach for the project. We have amended the guidance note to reflect this (see sections 2.5.1).
Procurement – Flexibility in approach	ENA, TasNetworks and TransGrid raised concerns with the level of prescription in the guidance note around expected procurement activities and sought greater flexibility in how a TNSP may approach its procurement for a project (ENA, p. 3, TasNetworks, p. 2, TransGrid, pp. 1-2). ENA and TransGrid both referred to examples of small brownfields	The guidance note is principles-based to allow TNSPs the flexibility to adopt an approach that is proportionate to each project, including towards procurement. We have amended the guidance note to acknowledge that TNSPs can tailor their procurement approach to the scale and complexity of the project, having regard to a range of factors (such as those raised by ENA). We have clarified our view that the procurement principles

	projects, for which it may be more efficient to use internal business procurement approaches, such as existing contracting tender panels and contracting approaches (ENA, p. 3, TransGrid, pp. 1-2). ENA further noted that procurement approaches can also be influenced by factors such as resource availability, the location of the investment, the size of the investment and past contractor performance (ENA, p. 3). TasNetwork recommends the guidance note expect the TNSP to demonstrate that its project procurement processes are prudent, efficient and fit-for-purpose (TasNetworks, p. 3).	contained in section 2.5 of the guidance note are transferrable to all procurement approaches, regardless of the scale and nature. We expect the TNSP to demonstrate it has undertaken each of the procurement stages contained in the guidance note, and recognise that the activities comprising these stages will vary commensurate to the project. TNSPs can also explain why they have adopted an alternative approach. Our guidance seeks to encourage TNSPs to make efficient decisions around the most appropriate procurement approach for the actionable ISP project, including contractual arrangements. Where a TNSP considers it prudent and efficient to utilise its existing contracting approaches, we would expect the TNSP to demonstrate why this is the case (see section 2.5.1 and 2.5.3).
Risk terminology	EUAA noted that the draft guidance note uses the terms 'risk' and 'uncertainty' interchangeably. It notes that 'risk is where you can assign probabilities and uncertainty when you cannot…' and asks the AER to clarify why it sees no distinction between the two (EUAA, p. 9).	We have reviewed the guidance note to ensure we are clear in our use of the terminology. We have used the terms: • 'risk' when referring to the identifiable risks that we expect TNSPs to quantify when seeking a risk allowance for the project • 'uncertainty' when referring to the general uncertainty surrounding a project that may result in cost overruns. We consider that TNSPs can reduce project uncertainty by undertaking activities to identify and assess individual project risks as well as staging CPAs. This is what the guidance seeks to promote. As explained in Table 1 above and in section 2.6 of the guidance note, we can provide a risk cost allowance in the CPA determination for identifiable residual project risks that have been quantified to reflect the realistic likelihood and impact of the risk occurring. Consistent with our incentive-based economic regulatory framework, our focus is on encouraging TNSPs to proactively identify and manage project risks ex-ante. Staging projects or CPAs can also assist with identifying and/or quantifying project risks, as each stage can reveal important project information and reduce project uncertainty.

Risk management – Contractor risks	ENA accepts that large actionable ISP projects should include an appropriate risk management framework (ENA, p. 3). It notes, however, that a TNSP's internal project governance will evaluate project offers against a broad range of criteria and will make a reasonable decision on risk management, having weighed up a range of factors impacting project delivery (ENA, p. 3). ENA considers that it is highly unlikely that individual risks will be quantified and made visible in tenders (ENA, p. 4).	We have updated section 2.6.3 of the guidance note to reflect that a range of factors impacting project delivery will be considered by a TNSP in determining how to manage each project risk. We expect the TNSP to explain where and why it has transferred risks to contractors, and explain how any risk premium it will pay to the contractor has been assessed and considered efficient. This transparency is important for us to assess the efficiency of the cost forecasts in the TNSP's CPA, as well as to ensure there is no double recovery of risk costs through the TNSP's own risk cost allowance and through any contractual arrangements it makes. Where individual risks and their premiums are not itemised in a contractor's scope of works, particularly for fixed price contracts, we expect the TSNP to explain how it has assessed these premiums as prudent, efficient and in consumers' interests (including any caveats to such an assessment and where risk premiums can change over time or in certain circumstances). We will want to understand the risks that will be retained and managed by the TNSP, as well as how the TNSP has used competitive pressure through its tendering approach to achieve efficient contract pricing. We have updated section 2.6.2 of the guidance note to reflect this.
Risk management – flexibility of approach	ENA considers that, as risks vary between projects and the characteristics of each project, there is no one size fits all risk allocation matrix and, hence, accuracy of the risk quantification. ENA recommends the guidance note provide flexibility for the market to evolve and for a risk approach that best suits the characteristics of the individual project and market circumstances at the time of development and implementation (ENA. p. 4). ENA further notes that TNSPs may have different risk appetites and a more flexible risk framework would be able to consider various risks and fair outcomes for relevant consumers and TNSPs (ENA. p. 4).	We consider the guidance note allows flexibility for TNSPs to tailor their risk management framework as appropriate. We have retained the two key aspects that we expect to be demonstrated in any risk management framework: • all foreseeable project risks have been identified and efficiently managed • processes and policies for monitoring those risks and managing them if they were to eventuate. Where a TNSP departs from these expectations, the TNSP should explain its reasoning for doing so. We have responded to network stakeholders' views on alternative treatment of risk costs in Table 1.

Risk allocation – risk costs and sharing	Spark and TransGrid recommended allowing compensation for higher risk costs associated with actionable ISP projects. They considered all risks should be costed into the CPA capex forecast, regardless of which party manages them. If it is the contractor, the tender process will ensure these are efficiently priced and should be included in the capital expenditure allowance. However, if retained by the TNSP, because to do so results in a lower cost of these risks than transferring them to contractors, these costs should also be able to be recovered. Otherwise, the TNSP has an incentive to transfer these risks to contractors which may result in a higher cost overall. (Spark, p. 1) TransGrid further considers it may not always be possible for a TNSP to transfer risk costs to a contractor or another third party. The willingness of a contractor to accept risk may vary, depending on factors such as their expertise, experience and risk appetite. It also considered that in some cases, it may be more cost efficient for certain risks to be retained by the TNSP, and the TNSP should be appropriately compensated. (TransGrid, p. 2) EUAA also queried how the AER will practically assess the risks that the TNSP's equity participants are best placed to bear. This includes assessing the economic justification for the risks the AER thinks should be borne by consumers. The EUAA queried how the AER will approach a TNSP seeking a fixed price contract that effectively shifts risk to a contractor which ultimately impacts consumers through a higher capital cost (EUAA, p. 9). MEU and EUAA consider there are three parties to each project – the TNSP, the contractor and consumers who ultimately pay for the investment (MEU, p. 4, EUAA, p. 9). MEU recommends the guidance note reflect this tri-partite risk sharing (MEU, p. 4). EUAA notes that a TNSP might put a particular risk on to contractors, but pricing that risk in the contract price simply transfers that level of risk to consumers; the contractor only bears the risk above that set in its agreement with the TNSP (EUAA, p. 9).	Our guidance note uses a principles-based approach, which allows TNSPs flexibility in how they prepare their CPA, including their approach to managing risks. This allows TNSPs to decide how they allocate and share risks. Our guidance notes sets out our expectation that TNSPs will be transparent about their approach and explain why they consider this to be prudent and efficient for the project. The economic regulatory framework allows TNSPs to seek a project risk allowance to cover the efficient risk cost (i.e. the consequential cost adjusted to reflect the likelihood of occurrence) of all identified project risks. Our guidance also encourages TNSPs to undertake activities that promote proactive risk identification and management, in order to determine an accurate and efficient ex-ante revenue allowance. There are then mechanisms in the regulatory framework that allow TNSPs to pass through some costs that result from risks beyond their reasonable control (in certain circumstances). Furthermore, we consider that staging projects or CPAs can also assist TNSPs in identifying and/or quantifying project risks, as each stage can reveal important project information and reduce associated cost uncertainty. We consider these mechanisms enable TNSPs to cost risks in their CPAs. We also expect the TNSP to be transparent about the risks that they will hold and manage, and those that are transferred to contractors, to the extent possible, and why they consider this is efficient (and efficiently priced). We understand MEU and EUAA's concerns around ensuring TNSPs efficiently allocate risks in the long term interests of consumers. The AEMO "feedback loop" places some incentive on TNSPs to find efficiencies in their cost forecasts and underpinning risk allocation; if the cost forecasts are too high, there is a risk the ISP project will no longer form part of the optimal development path.

Cost estimates	TasNetworks noted that it has practices in place to adopt data and learnings from the initial actionable ISP projects, as well as procurement and delivery of large projects in other infrastructure asset classes, to inform expenditure forecasts for Marinus Link. However, this information is often subject to commercial confidentiality and therefore it may not be possible to share lessons fully. TasNetworks notes it will continue to engage with industry to share project learnings and data, including with AEMO (TasNetworks, p. 2). PIAC supports requiring TNSPs to provide strong justification for their cost estimates including, where possible, historical data from similar projects. It also supports requiring TNSPs to demonstrate how these cost estimates have been through the various stages of procurement. PIAC recommends, however, requiring TNSPs to also explain *why* any changes to costs have occurred – for both cost increases (such as from unforeseen issues with route selection) and decreases (such as from effective tendering). Such information will not only provide important context for assessing the CPA, but also help develop better cost estimates for future projects. (PIAC, p. 2)	We welcome efforts by industry, AEMO and other stakeholders to share project learnings and data on these large projects. We encourage stakeholders to make as much data available as possible and to take steps to minimise data that may be considered commercial in confidence. This can include TNSPs de-identifying projects from which this data is derived and aggregating information to identify trends that can then be shared. We have amended our guidance note (see section 2.7.1) to expect that TNSPs explain why changes in costs have occurred over the course of its CPA planning and preparation.

Table 3: Stakeholder feedback relevant to staging CPAs (section 3)

Topic	Summary of stakeholder feedback	AER response
Objectives of staging CPAs	Most stakeholders support staging CPAs for actionable ISP projects (in some circumstances) to help reduce uncertainty. ENA and TransGrid supported the additional guidance and clarification for staged CPAs, noting this may be useful to reduce uncertainty associated with ISP project forecasts for certain costs. (ENA, p. 4, TransGrid, p. 3) ENA also noted some risks will not be able to be reduced through staging CPAs. Where costs arise during infrastructure delivery and are unable to be quoted/contracted (and are outside of the	We agree that allowing TNSPs to stage the regulatory process (in certain circumstances) can help reduce uncertainty associated with actionable ISP project costs and benefits, and improve expenditure forecasts. This can aid our assessment of these forecasts in accordance with clause 6A.8.2(f) of the NER. However, we also note there are challenges associated with staging CPAs, outlined in section 3.2 of the guidance note. Staging CPAs can also provide some option value, because subsequent CPA stages do not have to proceed. If the costs associated with a subsequent CPA increase after delivering a

	TNSP's control) this approach will not be able to improve the cost estimate. This links to ENA's proposal to pass through actual costs associated with some risks—see Table 5. (ENA, p. 4) EUAA supported the concept of staging for large actionable ISP projects, considering it can reduce risk to consumers if done well. ERM and MEU also support staging CPAs in their proposals to manage cost increases from RIT-T to CPA. PIAC similarly supported the use of staging to manage risk where it is uncertain whether a project may or may not be in consumers' interests. It supported using this approach to allow early design work to reduce these uncertainties and make a more informed decision of whether the project should proceed as planned. (EUAA, p. 10, ERM, p. 3, MEU, p. 4, PIAC, p. 2)	prior CPA, the TNSP must repeat the ISP feedback loop with the revised total project cost estimate before it can lodge the subsequent CPA with the AER. We recognise ENA's concerns that some risks will not be able to be reduced through staging CPAs. There will always be risk associated with investment projects, which is why we provide TNSPs with a rate of return in the revenue determination process.
Mechanics of staging CPAs	Several stakeholders specifically supported our proposed process (or elements of the process) for staging CPAs. ENA appreciated the level of detail in the staged CPA process, and TransGrid also agreed that in most cases two CPAs would be appropriate. (ENA, p. 4, TransGrid, p. 3) PIAC and TransGrid also agreed that TNSPs should engage early with the AER about whether to pursue a staged CPA approach to a project. PIAC considered stakeholders should also be engaged. (PIAC, p. 2, TransGrid, p. 3) ENA supported our proposed guidance for when subsequent stages do not proceed—that costs of the first stage will be treated in line with the TNSP's approved capitalisation and cost allocation policies. (ENA, p. 4)	We welcome stakeholders' support for our proposed process for staging CPAs and have retained this in the guidance note. We agree that stakeholders should be engaged on TNSP decisions to stage CPAs for actionable ISP projects. Stakeholders will likely be notified of this through the ISP feedback loop process. We have updated the guidance note (section 2.2) to encourage the TNSP to include its staging intentions in its pre-lodgement stakeholder consultation.
Clarity on interactions between staged projects and	TasNetworks recommended more clarity in the CPA staging guidance by consistent referencing to the differentiation between "directly staging a project" and "staging the CPA process".	We have ensured the final guidance note uses project staging and CPA staging terminology consistently. Where a RIT-T preferred option is itself a staged project, the

staged CPAs	TasNetworks' assumption regarding Marinus Link is that the cost 'cap' refers to the total cost of all CPAs associated with the particular stage under consideration, rather than the 'preferred option', which has a broader meaning. (TasNetworks, p. 3)	TNSP must lodge a separate CPA with the AER for each stage of the project (see NER, clause 5.16A.5). We refer TasNetworks to our cost benefit analysis guidelines to make the ISP actionable.[25] This states that '[w]here stages have previously been incorporated into a single ISP project and a RIT–T has already been undertaken on the full project, the TNSP can proceed to a contingent project application for the new stage provided the actionable ISP project trigger event in NER clause 5.16A.5 is met (this includes AEMO's feedback loop referred to in section 3.5.3). A RIT–T only needs to be re-applied where there has been a material change in circumstances in accordance with NER clause 5.16A.4…'[26]

Table 4: Stakeholder feedback relevant to ex-post measures (section 4)

Topic	Summary of stakeholder feedback	AER response
Scope of ex-post review	ENA recommended that the ex-post review process focus (almost) solely on the actionable ISP project rather than the total capital expenditure in the relevant period. (ENA, p. 5)	It is not permitted under the NER to focus the ex-post review solely on actionable ISP projects. The intent of the ex-post review is to consider the TNSP's capex holistically, and allow TNSPs flexibility to reprioritise or defer capex when individual project cost overruns are identified (see AEMC rule determination[27]). It also allows the incentive based regulatory framework to operate effectively across the TNSP's entire capex program. The NER requires us, as part of the ex-post review, to determine an overspend against the entire capex allowance (not actionable ISP project capex only). Our ex-post review guidance is focussed on actionable ISP project capex, within the TNSP's overall capex. It clarifies how we

25 AER, Cost benefit analysis guidelines – Guidelines to make the Integrated System Plan actionable, August 2020.

26 See AER, *Cost benefit analysis guidelines to make the ISP actionable*, August 2020, p. 42.

27 See AEMC, *Rule determination: National Electricity Amendment (Economic Regulation of Network Service Providers) Rule National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012*, November 2012, p. 135.

		will conduct ex-post reviews when a capex forecast contains actionable ISP project costs, but is subordinate to the capital expenditure incentive guideline. This guideline is required under the NER and provides guidance on the ex-post review for all distribution and transmission capex.
Objectives of ex-post reviews	Several stakeholders considered the objectives of ex-post reviews should be strengthened in relation to actionable ISP projects (EUAA, ERM, PIAC). Conversely, TransGrid suggested the ex-post review should not apply to actionable ISP projects. Some of these suggestions cannot be addressed in the guidance note and are discussed in Table 5. EUAA, ERM and PIAC considered the ex-post review is an important tool to protect consumers by ensuring only efficient and prudent capex is carried forward to subsequent regulatory periods. ERM considered that, in practice, it is not clear that this process achieves its intent. It considered the ex-post review can be exploited, because TNSPs can manage actual capex during each regulatory period by cancelling or deferring capital projects for which a capex allowance has been included. TNSPs can then include the cancelled or deferred projects in their capex project lists for the subsequent regulatory period. This allows TNSPs to overspend on projects without penalties, and with potential CESS rewards. If this occurs, consumers ultimately pay for the cost overruns, CESS incentive payments and the cancelled or deferred projects. (EUAA, p. 10, ERM, p. 3, PIAC, p. 3) EUAA supported a robust ex-post analysis of actionable ISP projects. EUAA considered the guidance note should change the way we interpret the capital expenditure incentives guideline. Because the intent of the guidance note is to expand the scope and quality of the matters TNSPs consider in preparing their CPAs, the 'reasonable expectation' bar in the ex-post review	We are not able to change the requirements of the ex-post review through this guidance note. This forms part of the economic regulatory framework, set out in the NER, which focusses on ex-ante incentives to promote efficient project delivery and capex. The ex-post review is designed to be a 'last resort' check and incentive to promote efficient and prudent capex, consistent with the AEMC's final determination for the rule change that introduced the ex-post review into the NER.[28] We agree it is appropriate to link the ex-post review to the information provided as part of the CPA process when a TNSP's total capex allowance contains capex associated with an actionable ISP project. If a TNSP follows the guidance note in developing its CPA, it will have strong governance arrangements in place, and have undertaken a thorough assessment of project risks prior to delivery/construction. As such, the information provided by the TNSP in its CPA as per the guidance note can inform the considerations we will have regard to when conducting ex-post reviews when actionable ISP projects are involved. This includes an expectation for the TNSP to link cost overruns to risk(s) identified in the TNSP's risk management framework and/or subsequent reporting processes (see section 4.3). We consider this is appropriate given our expectation for TNSPs to undertake risk management and reporting throughout the project lifecycle. We respond to ERM's concern about the potential for TNSPs to cancel or defer projects within their capex allowance to absorb

[28] AEMC, *Rule determination: National Electricity Amendment (Economic Regulation of Network Service Providers) Rule National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012*, November 2012.

	should be a lot higher than what it would have been in 2013 (and has been for recent transmission projects). It considered this flows from the expectation that TNSPs will in put in place best practice governance measures to manage any cost overruns for actionable ISP projects. (EUAA, pp. 10-11) EUAA also suggested the guidance note and ex-post review have to work in concert. It is not just the transparency and engagement obligations in the CPA process, but also the scope and powers of the AER in the ex-post review that provides the incentive for TNSPs to put in an efficient CPA. (EUAA, p. 11) ERM and PIAC suggested alternative options to strengthen the ex-post review which cannot be addressed through this guidance note and are discussed in Table 5.	overspends on actionable ISP projects under 'Interaction with the CESS' below.
Ex-post review process	Where an actionable ISP project has any material changes in the cost forecast or project expectations, ENA supported notifying stakeholders and helping them understand the reasons for any changes. (ENA, p. 5) PIAC agreed that the TNSP should demonstrate how it has proactively identified and managed project risks, including the potential for any cost overruns, in the ex-post review. (PIAC, p. 3)	We welcome ENA and PIAC's support on these parts of the ex-post review process, and have retained them in the guidance note. We have amended section 4.5 to add that we will also report on the key reasons for any changes to cost estimates that occur across the ISP, RIT-T and CPA stages of the project.
Ex-post statement	ENA recommended that reporting on cost estimates and actual costs in the ex-post statement be accompanied with details on the reasons for any changes. The ENA also considered that to understand how a project's cost changes, the total project costs and allocation across states needs to be considered as the portion of costs in one state vs another could change as could the overall benefit case. Change of scope can be a large driver of cost movements from project concept to execution, which makes any "apples vs apples" benchmarking problematic. Aspects of the project can also legitimately change from the draft/final ISP, RIT-T to CPA as the underlying details become better specified. Costs will evolve from initial estimation as a possible project in the ISP to a better specified project, supported by a tender process and negotiated final offers. This key information should	We agree that cost estimates evolve over time, and there can be a number of reasons for increases in cost estimates through the transmission planning and regulatory processes. We intend to accompany reporting of cost estimates in the ex-post statement with key reasons for any changes, and have clarified this in the guidance note (see section 4.5).

	be reported for all actionable ISP projects, including those subject to state based regulatory processes, to the extent its contestable arrangements allow. (ENA, p. 5)	
Interaction with the CESS	The EUAA encouraged us to provide some worked examples of how an ex-post review resulting in a prudent and efficient capital cost lower than actually incurred, might impact on CESS payments. (EUAA, p. 2) ERM expressed concern that TNSPs can cancel or defer projects for which a capex allowance has been included in order to overspend on actionable ISP projects without penalties, and with potential CESS rewards. TNSPs can then include the cancelled or deferred projects in their capex project lists for the subsequent regulatory period (see 'Objectives of ex-post reviews' above). (ERM, p. 3)	We have included additional information in this letter to explain potential interactions with the CESS for actionable ISP projects. Where we identify that a material amount of capex is deferred between regulatory control periods, we have the flexibility to reduce the CESS payment a TNSP would have otherwise received in the next regulatory control period for capex underspends in the current regulatory control period.[29] This is because, if a TNSP's capex forecast materially increases in the next regulatory control period because the capex was deferred, the TNSP's reward from deferring capex is likely to exceed the benefit to consumers from the short-term deferral.[30] However, the intent of our regulatory framework is to incentivise TNSPs to re-prioritise and efficiently defer capex to offset overspends within its total capex allowance. This is important to incentivise TNSPs to respond to changing circumstances throughout their regulatory control period. The AER will have the opportunity to review the need and allowance for the deferred project when it is re-proposed for the next regulatory control period. When calculating the annual efficiency gain/loss for the TNSP for the purposes of the CESS, we may also make further adjustments where we exclude capex from the RAB after an ex post review.[31] It is important that we make an adjustment to the CESS if we exclude capex from the TNSP's RAB through the ex-post review process. If we did not, the TNSP would also face a CESS penalty on the excluded overspend, and could bear more than 100 per cent of the cost of the excluded capex.

29 See AER, *Capital expenditure incentive guideline*, November 2013, section 2, p. 9.

30 AER, *Better Regulation Explanatory Statement – Capital Expenditure Incentive Guideline for Electricity Network Service Providers*, November 2013, section 2.3.5.

31 See AER, *Capital expenditure incentive guideline*, November 2013, section 2.

Reporting benefits realisation	Several stakeholders recommended we report on benefits realisation of actionable ISP projects in our ex-post statement, or through period reviews implemented as part of the broader work program. (EUAA, ERM, MEU) EUAA suggested we should consider expanding the ex-post statement to include a commentary on benefits. While the ex-post statement stems from the AER's requirement under the NER to review capex, the EUAA encouraged us to consider how we might, either within the existing rules or with a rule change, include commentary on the benefits. EUAA's experience in the private sector is that it is common practice in a post project assessment to look at costs and benefits. EUAA noted that even though costs are incurred over a relatively short period compared to benefits that hopefully accrue over the asset life, it considers there can be significant learnings from even an early review of benefits. It considered that is best practice regulatory decision making to look at both sides of the ledger. (EUAA, p. 12) EUAA, ERM and MEU also suggested we undertake ex-post benefit reviews at regular intervals over the project's asset life. ERM noted that currently, there is no process to review and confirm that benefits as set out in a RIT-T or the ISP actually occur. This is a significant gap in the framework for network investment, which could be resolved with an ex-post benefits review. ERM and MEU suggested that the purpose of such a review would be to provide learnings that could feed into assumptions used in future ISPs and RIT-Ts. This would ensure that forecasting assumptions more accurately reflect actual	We acknowledge that stakeholders consider reporting on benefits realisation is important for actionable ISP projects. Our role under the ex-post review provisions in the NER is focussed solely on capex (costs), not benefits. Under the current framework, we do not have a role in considering and/or reporting on actionable ISP project benefits realisation as part of our ex-post statements.[32] Introducing such a role would require a change to the current framework and would need to consider who is best placed to perform such an assessment. AEMO is responsible for estimating the market benefits associated with actionable ISP projects. Our forecasting best practice guideline to make the ISP actionable requires AEMO to consider post-period performance reviews, by comparing previous forecast events against observed events. Through this, AEMO and stakeholders can examine historical forecast performance, which may assist in identifying areas for improvement or additional components to consider.[33] The forecasting best practice guideline also discusses the annual forecast performance review. Under NER clause 3.13.3A(h) and in accordance with the reliability forecast guidelines, AEMO must, no less than annually, prepare and publish on its website information on (among other things) the accuracy of its demand and supply forecasts, and any other inputs that AEMO determines to be material to its reliability forecasts.[34] These tools can assist AEMO to improve its forecasting inputs and assumptions for actionable ISP projects.

[32] The capital expenditure incentives guideline set out the key rule requirements associated with ex-post measures. It states that 'Clauses 6.12.2(b) and 6A.14.2(b) [of the NER] require us to include in any draft or final regulatory determination, a statement on the extent to which the roll forward of the regulatory asset base (RAB) meets the capital expenditure incentive objective (defined in clauses 6.4A and 6A.5A [of the NER])'; see AER, Capital expenditure incentives guideline, November 2013, p. 13.

[33] AER, *Forecasting best practice guidelines to make the ISP actionable*, August 2020, p. 15.

[34] AER, *Forecasting best practice guidelines to make the ISP actionable*, August 2020, pp. 16-17.

	outcomes. This would promote consumer confidence that ISP and RIT-T processes are acting in consumers' best interest. MEU noted the purpose would *not* be to cause the value of an existing TNSP project to be optimised down. (ERM, p. 4, MEU, p. 5) ERM acknowledged that some network project benefits are only expected to accrue in future years. However, it considered this should not prevent us from undertaking ex-post benefit reviews of major transmission projects at every regulatory reset period, particularly given the small number of projects. (ERM, p. 4)	

Table 5: Other stakeholder feedback relating to the broader actionable ISP framework

Topic	Summary of stakeholder feedback	AER response
Ex-post review – alternative approaches	Some stakeholders suggested alternative approaches for the ex-post review that cannot be implemented through this guidance note, based on their view of the objectives of the ex-post review (set out in Table 4). TransGrid considered the ex-post review should not apply to actionable ISP projects. It considered the ex-post review is not appropriate or reasonable given the current treatment of cost risks. This is because, if TransGrid significantly overspends its total capex allowance, it could be penalised through the ex-post capex review process by having actual capex incurred excluded from the roll forward of its RAB. TransGrid encouraged us to re-assess our position on this matter as part of the broader work program to ensure TNSPs have a reasonable opportunity to recover their efficient costs. (TransGrid, pp. 3-4) ERM suggested the ex-post review process should be adjusted	Our guidance note is designed to support, and work within, the current regulatory framework under the NER. It cannot introduce changes to the regulatory framework. We consider the ex-post review is an important part of the regulatory framework. It was included as a 'last resort' check and incentive to promote efficient and prudent capex in project delivery. In its final rule determination for the rule change that introduced the ex-post review in the NER, the AEMC determined that an ex-post review 'is the most appropriate way to address the lack of [regulatory] supervision of incurred capex' and that 'a further and final check on the efficiency of expenditure that is rolled into the RAB is in the long term interests of consumers.'[35] Our focus is on assessing the efficiency and prudency of capex forecasts at the CPA stage. This creates an ex-ante incentive for TNSPs to outperform their allowance, due to the incentive

[35] AEMC, *Rule determination: National Electricity Amendment (Economic Regulation of Network Service Providers) Rule National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012*, November 2012, p. 27.

	as follows to improve consumer confidence that only prudent and efficient capex is rolled into the RAB: • Each capex project should be allocated a unique identification code. The AER should require TNSPs to report all cancelled or deferred projects for which a capex allocation has been made. The AER would then adjust down the capex allowance for the regulatory period by the value of these projects. Actual capex would then be assessed against this adjusted capex allowance to determine both the need for and extent of an ex-post review. • All individual capital projects with a cost exceeding a pre-determined threshold should be automatically subject to an ex-post review. This threshold amount would be calculated for each individual region to reflect different consumption levels acting as a proxy for relative cost increases to consumers from transmission investment. ERM considered this alternative is relevant to all regulatory determinations, including for the actionable ISP projects that are the subject of the AER's draft guidance. (ERM, pp. 3-4) PIAC recommended placing a limit on allowed cost overruns to protect consumers and strengthen the incentive on TNSPs to make accurate cost estimates during planning stages and manage costs during project delivery. PIAC noted the Victorian Government introduced a similar cap for the roll-out of smart meters. (PIAC, p. 3)	framework. In this context, we consider it is appropriate for the ex-post review to be a 'last resort' check and incentive to promote efficient and prudent capex in project delivery. Introducing these suggestions would require changes to the current framework under the NER, which requires making a rule change request to the AEMC.
Change to CPA process – draft decision	Spark and TransGrid recommended including a draft decision in the CPA process. They considered this would provide additional transparency and enable stakeholders to engage with the AER's reasoning, address issues and provide additional relevant information. TransGrid considered this a crucial step in the CPA process for actionable ISP projects. It also considered this is similar to the preliminary decision recently released for Project EnergyConnect, and welcomed us formalising this in the guidance note. (Spark, p. 1, TransGrid, p. 4)	Rule 6A.8.2(d) of the NER requires us to make a decision on a contingent project application within 40 business days from the date we receive the CPA or the date we receive any additional information we have requested from the TNSP (whichever is later). There is no provision in the NER for the AER to make a draft decision and the prescribed timeframes do not provide us with sufficient opportunity to issue a draft CPA decision. We consider that a rule change would be required to incorporate a draft decision into the CPA process.

		We recently provided a preliminary view on the prudent and efficient capital cost for Project EnergyConnect in order to continue to progress the project, noting that we were not yet satisfied that the project trigger event has occurred.[36] As flagged in our work program letter, we are considering potential opportunities to improve the CPA and RIT-T processes. This includes exploring the potential to enhance the rigour of the CPA process, including by introducing a draft decision, while simultaneously streamlining the overall planning and regulatory process. We are considering the best way to progress this work in light of the AEMC's broader review of options to support the timely and efficient delivery of large transmission projects and the rule change before it on the operation of the RIT-T.[37]
Independent review of AER decisions	Spark recommended we consider providing access to a third-party review process by an appointed expert or arbiter on the AER's CPA and ex-post review decisions for actionable ISP projects. It considered this would mitigate the issue that net beneficial projects are not progressed due to the TNSP's risk of incurring additional costs or penalties even if the investment is efficient. Spark considered this would not guarantee cost recovery but would improve confidence in the process and outcome in the case where the AER forms a different view to the TNSP of the efficient costs. (Spark, p. 3)	Spark's suggestion to allow for a third-party review of AER decisions on CPAs and ex-post reviews for actionable ISP projects would require amendments to the regulatory framework, potentially through law(s) and/or rule changes. This cannot be implemented through this guidance note and the implications of such a change would need to be carefully examined. Such a change would also be inconsistent with the rest of the economic regulatory framework, as the 'Limited Merits Review' regime was abolished in 2017.
Broader work program	PIAC considered further benefits can be achieved by reforming aspects of the regulatory framework for ISP projects, such as around the competitive delivery as well as the risk- and cost-	We welcome PIAC's support and interest in this broader work. As mentioned above, the AEMC has advised it intends to conduct a review, together with the market bodies, to consider options to

[36] AER, Preliminary Position: ElectraNet Contingent Project – Project Energy Connect, December 2020.

[37] See AEMC, Draft rule determination: Participant derogation – financeability of ISP projects, 4 February 2021, p. vi.; and AEMC, Material change in network infrastructure project costs rule change request (pending)

	sharing arrangements. PIAC looks forward to continuing to work with the AER in examining these. (PIAC, p. 3)	support the timely and efficient delivery of large transmission projects.[38] We look forward to engaging further with stakeholders on these matters.

[38] See AEMC, Draft rule determination: Participant derogation – financeability of ISP projects, 4 February 2021, p. vi.