



Concurrent Evidence Sessions

Call for Stakeholder Nominations

August 2021

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Contents

1	Introduction.....	1
1.1.	What are the Concurrent Evidence Sessions?	1
1.2.	What are we looking for in nominees?	2
1.3.	Other considerations.....	3
1.4.	Making a nomination	3

1 Introduction

As part of our stakeholder engagement on the 2022 Rate of Return Instrument we are requesting confidential nominations from stakeholders for members of the Concurrent Evidence Sessions.

1.1 What are the Concurrent Evidence Sessions?

The Concurrent Evidence Sessions will see a small number of experts engage in a group discussion with the board in order to aid them in their decision making process. Our preference would be to run the sessions in person if Covid-19 restrictions allow.

The Objective of the Sessions

In 2018, we took the view that the key objective of the Concurrent Evidence Sessions should be to aid the Board in exercising its judgement when deciding on the RORI. Following from this, we have decided that the expert sessions should be focussed on assisting the Board's decision-making rather than taking a more determinative role. The sessions are not intended to develop consensus or majority views which would then bind the Board's decision making. In addition, it is important for the Board to be able engage with a balanced overview of the key topics where the breadth of expert views are available.

Expert Conclave

We recognise that simply extending the time spent on the Concurrent Evidence Sessions will not necessarily improve outcomes, and potentially only serve to add costs. Accordingly, we have resolved to implement an 'expert conclave'. This will comprise a private meeting between the selected experts, held prior to the main evidence sessions, to narrow the topics for consideration, consider how best to follow the agenda and focus discussions. A small report summarising the discussions and highlighting topics included and excluded will be published after the conclave by the experts.

Our Information Paper, published in December 2021, will identify subject matters where we have a reasonably settled view and those areas where there are still a number of open options and more work is required. In this context, we intend the Information Paper to guide the Conclave in identifying areas for discussion in the expert sessions.

Timing

For 2022, there will be four 2.5 hour sessions across two separate days in addition to the conclave session. These will all take place in February 2022, and will be a week apart from each other. We are currently planning to host the four sessions on the 10th and 17th of February 2022, with the conclave in late January or the first week of February.

It is not necessary that all experts are available for all sessions, as some experts will have a skill set which lends itself to specialisation on certain topics. We will schedule the subjects as necessary when we have viewed the nominations and made our selection of experts.

Experts will be required to be familiar with recent AER technical work on the Rate of Return, and a reading list will be provided within the formal engagement process.

The time commitment for the experts will depend on the number of sessions they attend. As a guide we expect an expert participating in all sessions would require 10 days total time covering the conclave, sessions and preparation time.

1.2 What are we looking for in nominees?

The legislation requires us to call for nominations for experts and to include a minimum of three experts (if practicable). We recognise that stakeholders previously engaged their own experts, and some wanted this practice to continue. However, the purpose of these sessions is not to provide a representation of each stakeholder's perspectives, but rather for the Board to have access to the evidence that will best support its decision-making. In this context, it is important that we include those experts that will best advance our decision-making.

This means we may not include all nominated experts in the sessions. Where we think there is likely to be overlap in the evidence presented by multiple experts, we may include only one expert who is able to sufficiently present the evidence. This approach will enable us to structure the sessions so that the key material is covered and we are able to consider the span of evidence in a balanced manner.

We have not yet settled on the final range of topics to be discussed in the expert sessions. However, Table 1 of our Overall rate of return working paper provides an overview of the topics that we think remain open at this time.¹ In particular, there are a number of topics that are a priority for us at this time:

- The term of equity in our rate of return
- Equity beta and its estimation
- The relationship between the risk free rate and the MRP
- The use of the EICSI in setting our return on debt
- The potential use of capex weighting in the trailing average
- The use of cross-checks, including financeability, and scenario testing for the overall rate of return

Therefore we consider it would be beneficial for the nominated experts to be able to provide informed comments on those topics.

As we review the topics to be covered in the sessions and the experts that have been nominated, we will consider whether we should include additional experts in the sessions. It may be that we identify evidence that is not able to be sufficiently presented by the nominated experts and if that is the case we may decide to include additional experts.

¹ AER, Overall rate of return - draft working paper, July 2021, pp. 13-16, <https://www.aer.gov.au/system/files/AER%20-%20Overall%20rate%20of%20return%20-%20Draft%20working%20paper%202021%20-%20July%202021.pdf>.

We consider it important that the evidence sessions are comprised of members who collectively possess a range of relevant skillsets.

The skills and background we are seeking for experts include the following:

- A demonstrated understanding of the regulatory framework used in Australia, particularly the frameworks used by the AER and the ACCC
- Academic knowledge and practical experience of one or more of the following:
 - .1. Regulatory Economics
 - .2. Corporate Finance, especially as related to our regulatory framework
 - .3. Asset Pricing,² especially as related to our regulatory framework
 - .4. Impact of the regulatory rate of return on consumers/networks

This list is not exhaustive or exclusive, and we welcome submissions from stakeholders that consider other areas that would contribute to effective evidence sessions.

1.3 Other considerations

We are seeking experts who have a strong background in the technical aspects of regulatory rate of return. It is therefore likely that they will have been involved in some part of the process in recent years and may have been engaged by the AER or other stakeholders recently. We accept it will be necessary to hear from experts that have been engaged by the AER or other stakeholders recently. This was a key reason why we have decided to engage and remunerate the experts. This enables us to reinforce the obligation for the experts to support the AER rather than representing perspectives of particular stakeholders. We ask that experts not engage with stakeholders about the views or material they will present at the expert sessions, this includes not conferencing with stakeholders about the content of the expert sessions. Otherwise, we accept that experts may be simultaneously engaged by stakeholders and the AER.

It is also important that stakeholders confirm with their nominees that they are available for the relevant time period, and that they have been made aware of their nomination. Making the nominees aware of the timing, requirements and functions of the expert sessions early on would help us select and engage experts in a more effective and efficient fashion.

We will be engaging the experts by forming a non-statutory advisory board. We previously formed a non-statutory advisory board in 2018 for engaging the Independent Panel.

1.4 Making a nomination

Interested parties are invited to make confidential nominations by 17 September 2021.

We have set out desirable characteristics for the Concurrent Evidence Sessions nominees and the criteria that will inform our final selection. This may guide your nomination, however we encourage you to consider any other matters of relevance.

² Asset Pricing is an area of finance.

We are asking stakeholders for confidential nominations for the Concurrent Evidence Sessions. We will not publish a full list of nominations to protect privacy and confidentiality.

We prefer that all nominations are in Microsoft Word or another text readable document format. Nominations should be sent to: rateofreturn@aer.gov.au.

Alternatively, nominations can be sent to:

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