

Innovator Workshop: Regulatory Sandboxing

Online Forum

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Agenda

- 1 Introduction
- 2 The sandboxing toolkit
- 3 Innovation enquiry service
- 4 Sandbox trials
- 5 Knowledge sharing
- 6 Next steps

The regulatory sandboxing toolkit

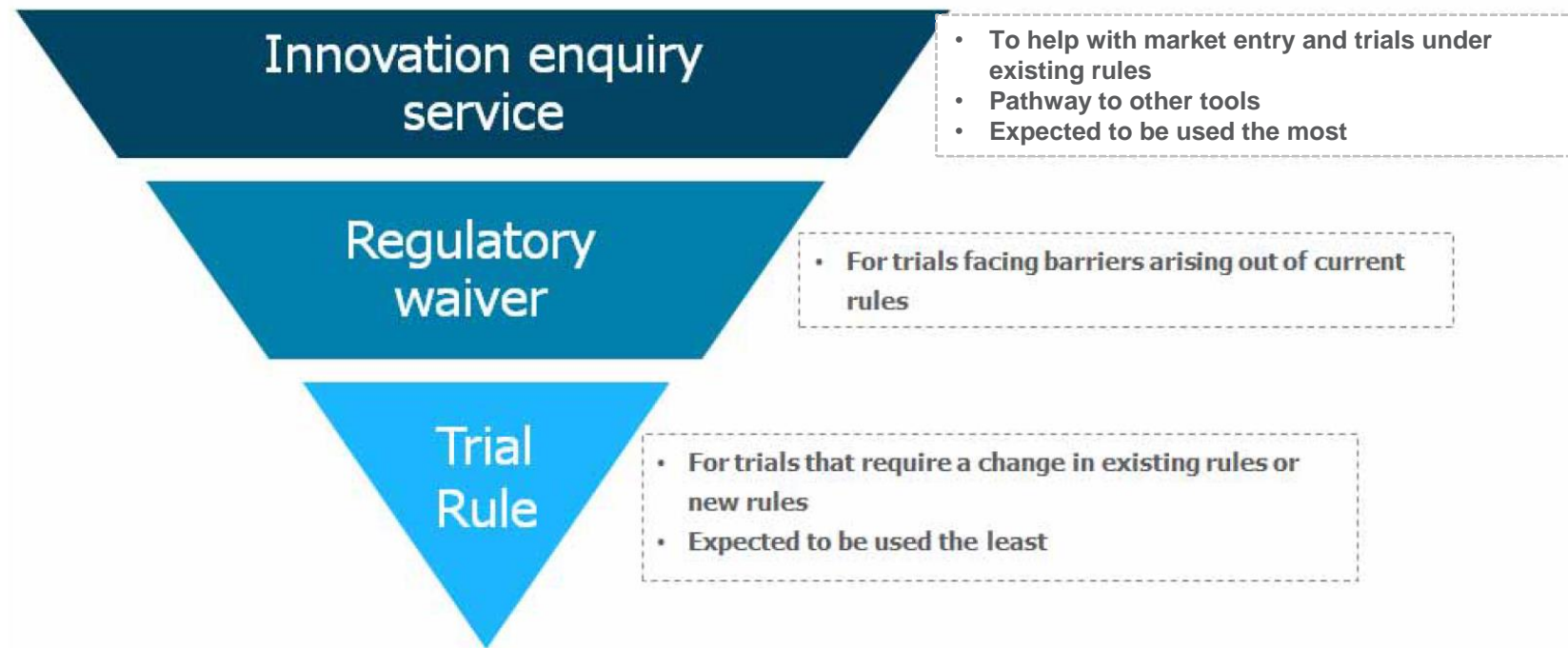
Mark McLeish



Our objective

- Encourage innovation which has the potential to contribute to the long-term interests of consumers

The sandboxing toolkit



What it won't do

- The regulatory sandbox won't provide funding or permanent waivers or rule changes
- Feedback or guidance will:
 - only be provided on the condition that the innovator acknowledges and agrees the AER has no liability in respect of feedback or guidance
 - not provide legal, business, engineering or technical advice
- Feedback or guidance or the granting of a trial waiver is not an endorsement by the AER
- Granting of a trial waiver is not a guarantee of future regulatory changes

Our project partners

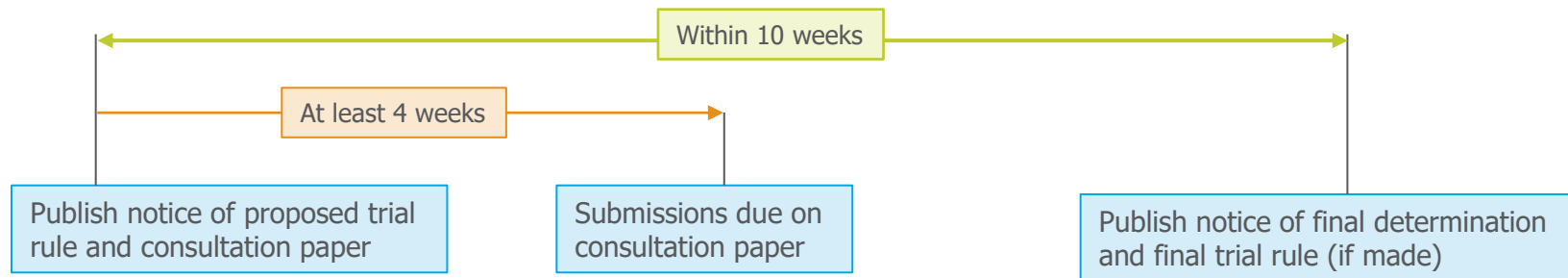
AEMC TRIAL RULE FUNCTION

BEN DAVIS, ACTING EXECUTIVE GENERAL MANAGER, AEMC

The AEMC's trial rule function

- Key amendments to be made by the Bill to introduce regulatory sandboxes will be expanding our functions to allow the AEMC to make trial rules for trial projects. This will allow the AEMC to make a trial rule as part of its usual rule making functions.
- After undertaking the trial rule change process, should the AEMC make a final trial rule:
 - the trial rule must be no longer than 5 years in duration
 - we may revoke a trial rule on the recommendation of the AER
 - we may extend the duration of a trial rule if requested.

Indicative timeline for trial rule change process



How the AEMC will consider trial rule requests

- Proponents must have regard to the relevant national energy objective (NEO, NERO, NGO) and innovative trial principles when developing a request for a trial rule.
- The AEMC will be developing guidance on our intended approach to considering trial rule change requests in 2022. Key issues we may consider in this guidance include:
 - how we may consider the 'innovative trial principles'
 - engagement we would expect from proponents prior to submitting a trial rule change request
 - when it would be appropriate to consider a trial rule change rather than a more permanent rule change
 - how we may approach trial rule changes that are likely to have impacts on consumers and/or market participants other than the proponent of the trial rule.

Regulatory sandboxing in Victoria

Presenter:

Chris Stuart-Walker
Manager, Market
Operations, Energy
Division

December 2021



Victorian sandbox – key attributes

- The Victorian sandbox commences on 1 June 2022.
- The commission is required to publish a Trial Project Guideline no later than 1 July 2022. We expect to consult on this in March/April 2022.
- New ‘trial waiver’ category inserted into section 16 of the Electricity Industry Act and section 22 of the Gas Industry Act.
- Trial waivers can be issued for up to five years (max 1 year extension).
- Ground up approach to applying conditions to trial waivers.
- Trial waiver holders could be existing licensees or other market entrants.
- The commission:
 - will have broad compliance and enforcement powers (linked to codes of practice)
 - will have broad powers to vary and revoke trial waivers
 - must have a public register of trial waivers
 - must consult on trial waiver applications.

Criteria for assessing applications

We must have regard to **innovative trial principles** enshrined in the legislation when assessing trial waiver applications. These principles include matters such as the proposed project:

- has improved approaches to supply and demand of energy
- improved services and outcomes for customers
- maintenance of adequate customer protections.

The principles in the legislation largely mirror those in the proposed national laws and rules.

However, we also need to consider:

- the commission's statutory objectives across three Acts in exercising our new powers and functions
- whether the project is genuinely innovative.

We cannot grant a trial waiver if we consider that the project is not likely to be carried out.

Regulatory Sandboxing – AEMO

Scott Chapman





Encourage greater opportunity to run trials.



Minimise impacts of existing regulatory frameworks enabling greater innovation.



Facilitate the need for trials to be implemented quickly to address new challenges or opportunities.



Create a clear pathway for reform and rule changes to enable trials and inform potential future changes to reduce unnecessary regulatory barriers.



Regional Australia Microgrid Pilots Program

November 2021

Australian Renewable Energy Agency

RAMPP Objective

To support improved resilience and reliability of electricity supply in regional Australia through pilot microgrid demonstrations that resolve the remaining barriers to final investment and full deployment.

To achieve the Objective ARENA is seeking applications for demonstration projects that contribute to the Program outcomes, by:

1. Demonstrating improved resilience – the ability to maintain continuous supply of electricity to the microgrid in preparation for, during and after natural disasters.
2. Demonstrating improved reliability – the ability to balance electricity supply and demand from a very short time to a very long time.
3. Identifying the **technical, regulatory and commercial barriers and how the project will address those barriers** to provide replicable, scalable models for the deployment of microgrids; and, if relevant, evidence of engagement with relevant stakeholders to deliver those solutions.
4. Advancing upon learnings and innovation already demonstrated within the existing portfolio of microgrid projects, including non-ARENA projects.

Q&A

The Innovation Enquiry Service

Eugenie Edquist

Objectives of the IES

- Allows for **faster market entry** by helping innovators navigate **complex regulation**
- **De-mystifies** current regulatory frameworks through:
 - **custom feedback** provided by the sandbox team
 - **online guidance** hosted on the sandboxing website
- **Transmitting regulatory knowledge** will foster **innovation** and **competition** in the wider market.
- IES provides guidance on:
 - What **regulations** might apply to a project
 - Options to **adapt** for market entry
 - What **stakeholders** to contact, and **why**

Questions (1)

- Does our **proposed guidance** meet objectives of **de-mystifying regulation, transmitting knowledge** and **fostering innovation** in the wider market?
- What barriers are you facing? What **questions** are we **likely to receive**?

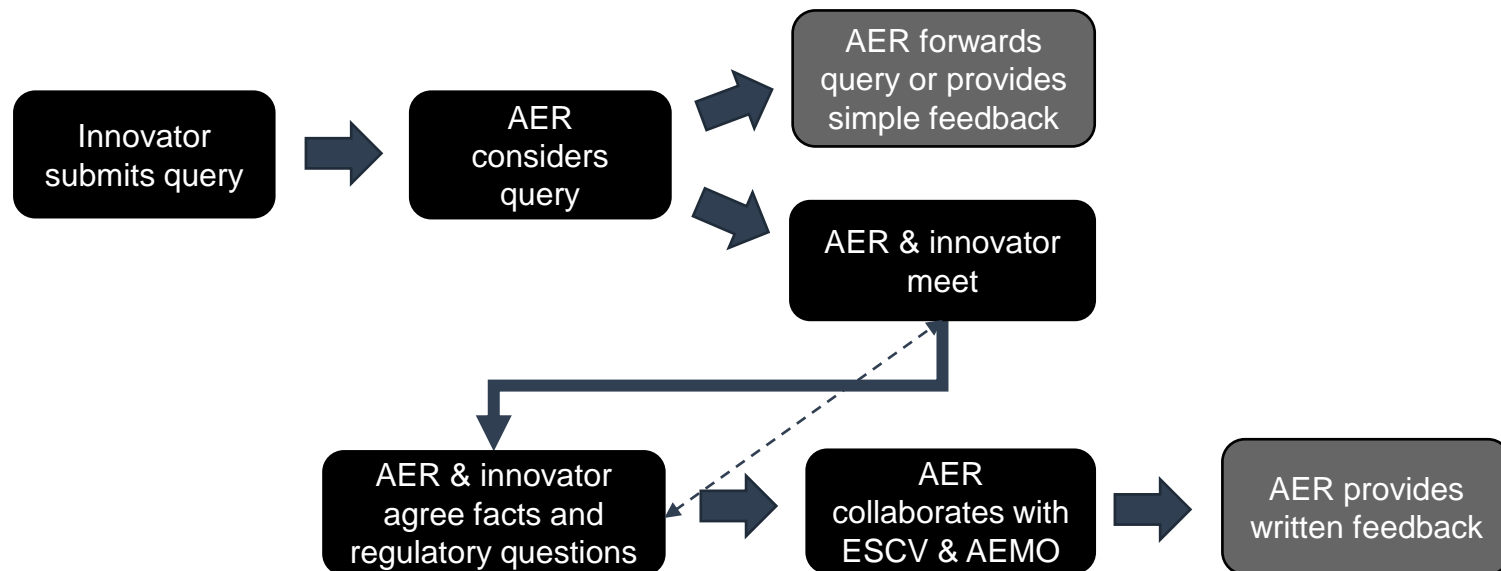
Delivering the IES

- IES will be a “**first stop shop**” drawing together **expertise** from internal AER experts, AEMO, ESCV and AEMC
- Enquiry services can only foster innovation if learnings travel beyond individuals businesses and **into the market** through **knowledge sharing**
- We propose to share knowledge through **aggregated, anonymous case studies** and **high level statistics** on emerging innovation

Questions (2)

- Do innovators see knowledge sharing as **beneficial to industry**?
- **How much detail** contained in an enquiry must be shared for knowledge sharing to be **beneficial**?

Engaging with the IES



Questions (3)

- How can we balance the time it takes to develop **high quality responses** against your **business needs and deadlines**?
- Do you have questions about **any aspect** of our proposed **IES engagement process**?

Prioritisation criteria

- Generally, enquiries will be addressed on a **first-in, first-served basis** (with priority given to **new entrants and smaller start-ups** without extensive resources)
- If **demand for the service is high**, we propose to prioritise enquiries and applications that:
 - Have **cross-industry support**, e.g., trials that stem from the Distributed Energy Integration Program
 - Are **similar** to other enquiries or applications currently being progressed and that can be **grouped together**
 - Will yield **new or valuable regulatory insights**
 - Are closer to being **ready to commence** or are **more likely to succeed** in the **market**
 - Will benefit **consumers experiencing vulnerability**

Questions (4)

- Are these **prioritisation criteria** useful for prioritising enquiries at times of **strong demand**?
- Are there **any other criteria** we should consider?

IES Information handling

- We will endeavour to **protect** any **confidential information** (including IP) that IES users provide to us
- IES users must specifically **identify confidential information**, and provide reasons in support of their **confidentiality claim**
- IES users **must consent** to the AER disclosing information (including **confidential information**) to other government bodies and regulators, on a **confidential basis**, for the purpose of **responding to their enquiry**

Questions (5)

- What measures can the AER take to provide you with **comfort** and **confidence** in agreeing to disclosure?
- How can the AER **best work** with IES users to **make sure** confidential information is **identified**?

Scope of the service

In scope	Out of scope
Energy regulations that might apply to a specific innovation	Legal advice, binding rulings, regulatory decisions, endorsements or business incubation services
Informal steers on options to progress a project	Endorsement or certification that an innovation is compliant with the rules
Processes required for market entry	An official organisational view from the AER
Referrals to apply for a trial waiver or trial rule change	
Referrals to other energy sector stakeholders	

Q&A

Sandbox trials

Brendan Staun

Purpose of sandbox trials

- An **opportunity** for innovators to **test an innovative project** in a real-world context
- The **purpose** is to **inform** the design of the regulatory framework
- **Knowledge** gained will be **shared** and **inform changes** to the regulatory framework

Attributes of a sandbox trial

- Trial waivers (AER) and trial rule changes (AEMC)
- Trial waivers **temporarily remove regulatory barriers by waiving compliance requirements**
- Trial rule changes are **temporary rule changes** that allow trials to proceed
- The trial project must be '**genuinely innovative**' with regard to *innovative trial principles*

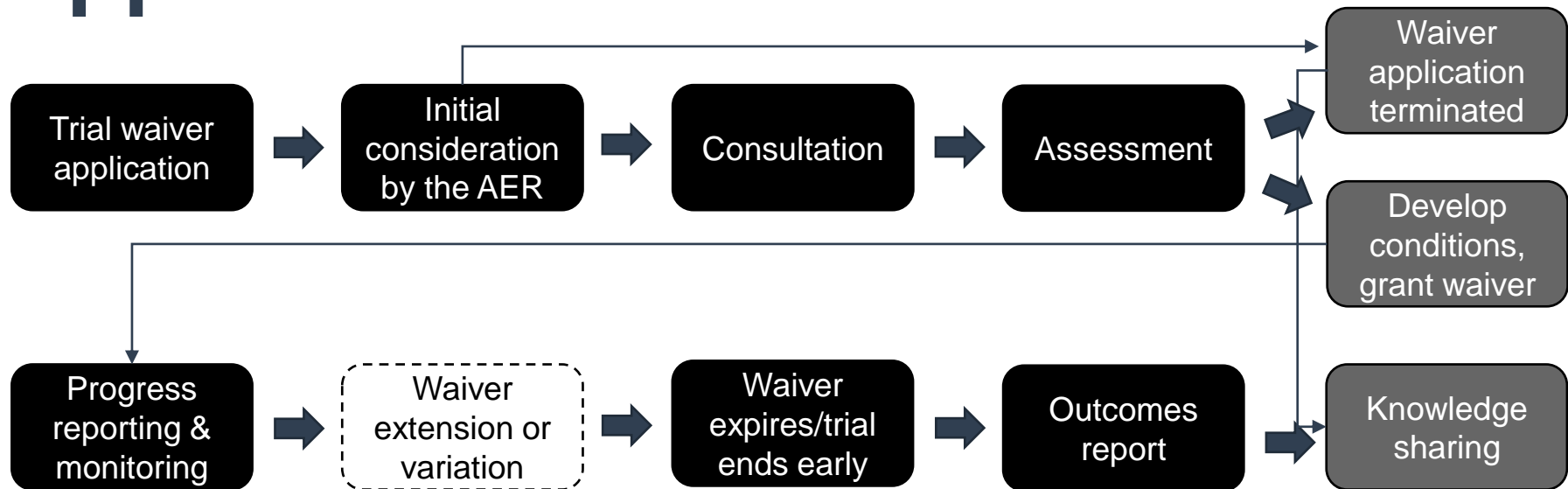
Running a sandbox trial

- A trial project must meet certain requirements to be **eligible** for a trial waiver
- The AER must have regard to **eligibility requirements** (draft rules) and **innovative trial principles** (draft laws)
- **Innovative, unable** to be carried out under the current rules, and requires a **proof-of-concept** trial
- Any **trade-offs** between the eligibility requirements and innovative trial principles we **will be guided by the NEO**
- Applicant will be required to provide **detailed information** on its eligibility

Key issues for consultation

- **Timeline** for assessing a waiver application
- Trial waiver **confidential information**
- **Eligibility** requirements
- Trial waiver **conditions**
- **Consumer protection** measures
- **Reporting** and **monitoring** requirements

Timeline for trial waiver applications



- Aim to finalise applications within 3 months – guidelines specify 6 months

Question

- What factors should the AER consider in determining a timeline for assessing trial waiver applications?

Trial waiver confidential information

- Applications made by a secure web portal
- Trial proponents **identify** '*trial waiver confidential information*' prior to submitting their trial waiver application
- We will endeavour to **protect** any '*trial project confidential information*' provided to us
- **Proponents will need to consent to the AER disclosing** their '*trial project confidential information*' to other government bodies or regulators (on a confidential basis)

Question

- Should applicants be required to agree to their trial project confidential information being shared with the ESCV, AEMO and the AEMC?

Eligibility requirements

- The eligibility requirements include whether the trial project:
 - is likely to contribute to the **development of regulatory and industry experience**
 - will have an **adverse effect** on the safety, reliability or security of supply of electricity, and **proposed mitigation measures**
 - confidential information will impair
 - the AER's ability to provide appropriate **public transparency** over the conduct and outcomes of the trial
 - the **development of regulatory and industry experience** arising from the trial
 - any other matter required by the NEL
- We propose to add an eligibility requirement that a trial waiver applicant **have an exit strategy**

Question

- Should trial waiver applicants be required to have an exit strategy to qualify for a trial project waiver?

Innovative trial principles

- Innovative trial principles include whether the trial project:
 - is developing **new or improved approaches** to supply or demand
 - contributes to the achievement of the **national electricity objective**
 - materially **improves services and outcomes** for consumers of electricity
 - maintains adequate **consumer protections**
 - is **unable to proceed** under the existing regulatory framework
 - has **moved beyond research and development stages** but not at a stage to attract investment
 - may **negatively impact AEMO's** operation of the NEM
 - may **impact on competition**
 - any other principle prescribed by the **Regulations**
- There is **no requirement** that the AER must be satisfied **that all principles or eligibility criteria are met** in order to grant a waiver

Trial waiver conditions

- The AER is permitted to **impose any conditions** on trial waivers that **we consider appropriate**.
- Proposed conditions:
 - a requirement for innovators to inform trial participants of their **ability to opt out** of the trial at any time
 - a requirement for innovators to implement **a dispute resolution mechanism** that trial participants may access in the event of a dispute
 - **reporting obligations**, including a regular progress report and an end of project **knowledge sharing** report
 - potential additional obligations for proponents to **report on their compliance**.

Question

- Are there issues in including any of these requirements as a condition for being granted a trial waiver?

Consumer protection measures

- The **need for additional conditions** will be assessed on a **case by case basis**
- We will have **particular regard** to consumers that may be **experiencing vulnerability**
- Other aspects of the framework that will protect consumers are:
 - Public **consultation** on the waiver application
 - Expectation that trial waiver applicants will generally be required to obtain **explicit informed consent** from participants
 - Trial participants can **opt out** of a trial at any time

Question

- Are these consumer protection measures sufficient?

Reporting and monitoring

- **Reporting** will be used to **monitor** conduct and outcomes of trials
- **Knowledge sharing**, via regulator reporting, **will be a trial waiver condition**. We will work with innovators to address confidentiality issues
- We propose to set reporting and monitoring requirements on a **case by case basis** using a risk-based approach
- Non-compliance with reporting may trigger more extensive monitoring, a review of the trial and/or a compliance audit

Question

- Should trial waiver applicants be required to report on compliance with the trial waiver conditions as part of their progress reports?

Q&A

Knowledge sharing

Steph Kalmar

Purpose of knowledge sharing

- **A key purpose of regulatory sandboxing is to inform the development of the regulatory framework – this is achieved via knowledge sharing**
- **Knowledge sharing supports learning across the sector, fosters innovation and leads to better consumer outcomes**
 - Helps reduce barriers to entry for new participants
 - Clarifies opportunities and challenges that exist within current regulatory frameworks for new approaches
 - Informs policy makers on future design of regulatory arrangements
 - Identifies areas of regulation that are unnecessarily complex and suitable for reform
 - Promotes innovation, increases choice and value for consumers
- **To facilitate the knowledge sharing function:**
 - Innovators will be required to consent to the knowledge sharing arrangements to access IES support
 - Knowledge sharing (via regular reporting) will be a trial waiver condition

How we will share knowledge

- We will work closely with innovators to identify what information can and cannot be published
- Information will be shared on the dedicated regulatory sandboxing website
- **Trial waivers:** Regular progress reports and an end of project knowledge sharing report
- **Innovation Enquiry Service:**
 - Aggregated and de-identified case studies and web guidance
 - Follow up-surveys
 - Internal sharing of projects to develop policy
 - Invitations for innovators to participate in webinars and other events

Next steps

Mark McLeish

Next steps

- The sandboxing legislation and associated rules have not been passed yet
- Law and rule changes are not required on the IES
- We see value in consulting early on the trial projects guidelines, and as a package with the IES.
- Submissions are due on 28 January 2022
- We will consult on draft Trial Projects Guidelines in early 2022
- We intend to launch the IES in Quarter 2 2022.

