

30 August 2018

Mr Warwick Anderson  
General Manager, Network Finance and Reporting  
Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

Dear Warwick

**RE Review of regulatory tax approach**

I refer to your letter of 17 August 2018 (your ref: 63688) in which you request the provision of tax information by TasNetworks for the purposes of informing the Australian Energy Regulator's (AER) review of the approach used by the AER to set regulatory tax allowances for regulated electricity networks.

Noting that the provision of this information is voluntary, please be advised that TasNetworks has provided the information requested via the AER's secure upload portal, to the full extent that the material sought by the AER is both readily available and pertains to TasNetworks', given its status as a publicly owned entity. However, with TasNetworks having commenced operations on 1 July 2014, we have only been able to provide tax returns for three financial years, rather than the five year period requested by the AER, noting that TasNetworks' taxation affairs for 2017-18 are yet to be finalised. The information provided is detailed in the attachment to this letter.

To date, like other government owned network operators, TasNetworks has typically paid more tax than has been provided for as part of its revenue allowances. Nonetheless, while we understand the AER's desire to minimise discrepancies between the tax allowances set by the AER and the actual tax payments made to the ATO by regulated networks, TasNetworks sees no need to change the approach to estimating the expected tax payments of regulated electricity networks when setting revenue allowances, at least in relation to government owned businesses.

Further, factors such as differences between the depreciation methodologies used for regulatory and taxation purposes, differences between the level of debt carried by network businesses and the level factored into regulatory determinations, and the inevitable variations from budgeted operating results make it unlikely that material variations between the tax liabilities which are included in networks' revenue allowances and the tax actually paid by those businesses can be avoided without a significant increase in regulatory burden. Here, I note that no explanation of materiality has been provided by the AER in its discussion of this issue.

As a business which is publicly committed to achieving the lowest sustainable prices for our customers, TasNetworks has already realised significant expenditure savings since we began operating in 2014. On average, our customers now receive higher network reliability and pay lower prices than they did previously. Therefore, we reject the suggestion by Capital Financial Consultants Ltd<sup>1</sup> that were networks' tax allowances to be raised to reflect their actual payments, TasNetworks would seek to take actions that raise TasNetworks' tax payments, in the main because of the impact that such a course of action would have on the prices paid by our customers.

The preparation of a regulatory proposal is a complex undertaking that takes years to complete and involves a range of strategic decisions which have far-reaching consequences for regulated networks and their customers. Those decisions are informed by the National Electricity Rules and regulatory guidelines applicable at the time. We are, therefore, concerned about the intent to progress the application of any changes to regulatory models arising from the review of the AER's regulatory tax approach to the round of network determinations due for final decision in April 2019, which includes TasNetworks' proposals.

If this were to occur it would mean that any proposed changes to the AER's regulatory models would be made during the regulatory determination process – and *after* TasNetworks will have submitted its revised regulatory proposals. This creates increased regulatory uncertainty and reduces overall transparency for customers leading into the finalisation of TasNetworks' 2019-24 revenue allowance.

As demonstrated by the willing provision of the tax information requested by the AER, TasNetworks is more than happy to work with the AER to improve the transparency of the revenue determination process as it relates to the allowances made for networks' taxation liabilities. We believe it is particularly important continue to work collaboratively on this matter to ensure transparency leading into TasNetworks' final decision.

---

<sup>1</sup> *Tax payments versus the AER's allowances for regulated businesses*, Capital Financial Consultants Ltd, 16 June 2018



## **Attachment: Information provided via the AER's secure upload portal**

### ***General information – entity structure***

As at 30 June 2018 the The TasNetworks group includes Tasmanian Networks Pty Ltd (TasNetworks) which is a state-owned corporation, and two wholly owned subsidiaries, as follows.

- TasNetworks Holdings Pty Ltd is a 100% wholly owned subsidiary of TasNetworks. TasNetworks Holdings Pty Ltd does not trade in its own right. It holds 100% ownership of the shares in FortyTwo24 Pty Ltd.
- FortyTwo24 Pty Ltd (formerly AuroraCom Pty Ltd) which provides “other” unregulated services and only commenced operations on 1 July 2018.

### ***General information – tax returns and ATO reviews***

- 2014-15 NTER Income Tax Return
- 2015-16 NTER Income Tax Return
- 2016-17 NTER Income Tax Return
- A letter from the ATO with respect to a NTER Income Tax review for the 2016-17 financial years. This letter advises that there were no significant risks identified as a result of the review that warranted further action from the ATO.
- NTER Private Ruling – CGT implications of the transfer of functions from TasNetworks to a 100% wholly owned subsidiary of TasNetworks

### ***Fixed asset registers and policies***

- Fixed Assets Tax Register as at 30 June 2017
- Capitalisation policy